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Judiciary Committee March 1, 2023
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WAYNE: Good afternoon and welcome to Judiciary Committee. My name is Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. And we'll start off by having committee members and staff do self-introductions starting with my right, Senator Ibach.

IBACH: Good afternoon. Senator Teresa Ibach from District 44, which is eight counties in southwest Nebraska.

McKINNEY: Good afternoon. Terrell McKinney, senator, District 11, north Omaha.

JOSH HENNINGSSEN: Committee legal counsel Josh Henningsen.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

BLOOD: Good afternoon. Senator Carol Blood, representing western Bellevue and eastern Papillion, Nebraska.

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

DeKAY: Good afternoon. Barry DeKay, District 40, representing Holt, Cedar, Knox, Antelope, northern part of Pierce County, and most of Dixon County.

WAYNE: Thank you. And also assisting us are our committee pages: Luke McDermott from Omaha, political science and economic major at UNL; and Isabel Kolb from Omaha, who is a political science major and prelaw major at UNL. This afternoon, we'll be hearing five bills and we'll be taking them up in the order that is listed outside of the room. On the table to the side of the room, if you are planning on testifying, there is a blue testifier sheet. Please make sure you fill one out so we can keep accurate records, records. Also, if you are here and want your position to be known, but maybe people in front of you have already said the same thing and you don't want to repeat what was already said, you can fill out a gold sheet over there and it will record your presence and your position on the bill. If you have handouts, please make sure you hand them to the, to the pages to make sure that we get enough copies for not only the record but for the committee. Those who are listening, in the future, if you would-- it would be helpful if you would bring ten copies already ready to go. It is Legislature policy that any-- all letters for the record must be received by the committee by noon the day prior to the hearing. Testimony for each bill will begin with the introduction--

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introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then we'll hear from those in opposition, followed by those speaking in the neutral capacity. Then the introducer of the bill will be given an opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by spelling both your first and last name for the record. We will be using a three-minute light system. When you begin it'll be green, it'll be yellow once there's one minute left, just a one minute warning, and then red, we ask you to wrap up your thoughts. Like to remind everyone, including senators, to please turn off or silence your cell phones. With that, we will begin today's hearing with LB480. Senator Holdcroft, welcome to your Judiciary Committee.

HOLDCROFT: Thank you, Chairman Wayne. Good afternoon, Chairman Wayne and members of the Judiciary Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. I represent Legislative District 36, which includes western and southern Sarpy County. Today, I'm introducing LB480, a bill to expand the provisions of our current medical lien statute to include emergency medical services operated by a political subdivision. When an individual is involved in an automobile accident that causes injuries and that individual is transported by municipally owned EMS services, there is a cost incurred by the EMS provider. When there is compensation paid by the insurer of the party at fault, some automobile insurance carriers will send the money for these costs directly to the patient and their attorney as part of an overall settlement. It is then up to the EMS provider to attempt to recover these costs from the patient to pay for the services that were rendered. It is my understanding that in experience it is very difficult to recover these costs. Under Nebraska Revised Statute 52-10-- 401, hospitals, physicians, nurses, and chiropractors are able to file a lien against any recovery made by the injured party to ensure that they receive payment out of this settlement. When EMS providers have reached out to insurance companies, they have been advised to file liens. However, current state law does not include EMS transport agencies or companies in the list of those who can file a lien. LB480 would change Nebraska Revised Statute 52-401 by adding providers of emergency medical services as a party who can file a lien. Emergency medical services for the purpose of these changes is limited to those who are a public entity. Before introduction, a draft of this bill was provided to the Nebraska Hospital Association and the Nebraska Medical Association, who registered no objections. I introduced this bill at the request of the United Cities of Sarpy County, a coal-- a coalition of the mayors of

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the five cities in Sarpy County. This particular issue was brought to the attention of the mayors by Chief William Bowes of the Papillion Fire Department. He will be following me in testimony today. Chairman Wayne and members of the Judiciary Committee, thank you for your consideration of LB480. I appreciate your attention today and I would be happy to answer any questions you may have. I would encourage you to take advantage of the time with the experts after me.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. First--

HOLDCROFT: Thank you. I have, I have another testimony.

WAYNE: Oh, you do? Are you, are you going to, are you going to be here for close?

HOLDCROFT: I'll be back-- I'll try to be back for closing.

WAYNE: OK. All right. Everybody used to give me crap. First proponent. Welcome.

BILL BOWES: Thank you. Senator Wayne, members of the committee, thank you for allowing me this opportunity to speak in favor of LB480. I'd also like to thank Senator Holdcroft for introducing this bill. My name is Bill Bowes, B-i-l-l B-o-w-e-s. I am the fire chief of the Papillion Fire Department. I'm representing the city of Papillion and the United Cities of Sarpy County at this testimony. Just to give you a little background on our fire department, we serve the communities of Papillion and La Vista, along with the Papillion Rural Fire Protection District. Our territory stretches from Harrison on the north to the Platte River on the south, roughly 36th Street on the east out to Highway 50. So we have a good chunk of central Sarpy County. We have a staff of 68 personnel, 60 of which are in suppression and provide fire, rescue, and EMS services to our communities. We serve about 65,000 people. We are a fire-based EMS system, which means we provide emergency care and transports for the patients we see through the 911 system. One of the issues that we have had through the years is the inability to file medical liens with auto insurance companies and attorneys representing the patients we have transported to area hospitals because of injuries suffered in a car crash. In these cases, both auto and personal health insurance can play a role in paying the medical expenses of the patient. If an auto insurance company is involved, the carrier may have a policy of paying the patient any money due them with the expectation that the patient

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would then pay off their own medical bills. We find this isn't always the case. What we have found is that if the patient received the money directly from the insurer as part of the settlement, it becomes much more difficult to provide the service to recover the-- to, to-- for the service to recover these costs. LB480 will allow us to file a lien when the auto insurance carrier that will cause them to pay us directly before any money goes to the patient. The same is true when the patient has enlisted the aid of an attorney. In our experience, we find that is the conscientious, want to do what is right patient who will follow through and pay their bills. Others don't necessarily see that as an obligation. We believe that providing authority for municipally owned EMS services to file this lien, the patients, attorneys, and insurance companies will know the expense exists and, therefore, we can have our services paid. Over the course of an average year, we lose approximately \$15,000 to \$20,000 because of the inability to file liens. Thank you for your time today. I'd be happy to answer any questions you have.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

BILL BOWES: Thank you.

WAYNE: Next proponent.

RYAN McINTOSH: Good afternoon, Chairperson Wayne, members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h. I'm here today as a registered lobbyist on behalf of Nebraska State Volunteer Firefighters Association and Nebraska Fire Chiefs Association. On behalf of these organizations, we support LB480. For many, many decades, the liens have been authorized for settlement proceeds for injuries where physicians, nurses, chiropractors, or hospitals have rendered services related to those injuries in which medical bills have remained unpaid. As has been said, LB480 adds EMS providers to that list. It's a simple measure to ensure our first responders are recognized and included. Although EMS providers throughout the state are often volunteers, there are still many out-of-pocket costs associated with provision of emergency medical care and ambulance runs. Urge the committee to support LB480 and appreciate your consideration and support.

WAYNE: Any questions from the committee?

RYAN McINTOSH: Thank you.

WAYNE: Seeing none, thank you. Next proponent. Proponent. Proponent. Seeing none, start off with opponents. Any opponents? Anybody testifying in the neutral capacity? Neutral capacity? Seeing none, we'll-- Senator Holdcroft waives closing. There's one letter for the record and one letter of support. And with that, we'll close the hearing on LB480 and open the hearing on LB331. Senator DeBoer.

DeBOER: Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r. I represent northwest Omaha, District 10, and I'm here today introducing LB331, which would provide for adoption by two persons jointly and would also provide for second-parent adoption. Some of you may recognize this bill because I've brought it every year I've been here. It is, however, improved from the first time, so we've, we've been working on it over the years. Nebraska currently allows three major categories of adoption. The first type of adoption is adoption of a minor child by any adult person or persons. This is the type of adoption we typically imagine when we are thinking of adoption in which a single person or a married couple may adopt a child that they do not have a familial relationship with after they complete a pre-adoptive or foster care placement and an extensive home study and interview process. LB331 will clarify that two persons could adopt, could adopt a child jointly regardless of their marital status, providing that they complete the same requirements that exist under current law for this type of adoption already. The second type of adoption is an adoption of an adult child. An adult child may be adopted by another adult or adults who are not the stepparent of the adult child if the adult child had a parent-child relationship with the prospective parent or parents for at least six months preceding the adult child's age of majority and that that adult child has no existing legal parent. OK. Third type of adoption currently allowed under Nebraska statute is stepparent adoption. Stepparent of either a minor or adult child may adopt their stepchild, provided the child has only one legal parent. So nobody in the state of Nebraska can ever have more than two legal parents and LB331 does not seek to change this. What LB331 would do is provide for second-parent adoption, which is very similar to stepparent adoption. Second-parent adoption allows a second person who is not married to the parent-- the child's parent to legally adopt the child. Under LB331, a child who has sole-- a sole legal parent, one legal parent may be adopted by a second parent with whom the child has a parent-child relationship with. So they have to have this parent-child relationship. LB331 is carefully tailored when it comes to second-parent adoption. First, the child in question must only have

one legal parent and must consent to the-- and that parent must consent to the adoption. Second, the second person seeking to adopt the child must have the parent-child relationship with the child already established. This is the same standard currently applied to adoption or an adult child. Finally, a home study must take place before a second-parent adoption is permitted. There are a variety of situations in which a second-parental relationship with the child has been established but is not legally recognized. For example, say a couple has a child together and after the child is born the couple divorces. The father of the child then remarries and the woman acts as a stepmother to the child. With all three parents taking an active role in the child's life, the stepmother cannot legally adopt the child because the, the child does not have a sole legal parent, has two parents. So this would still be the case in LB331. But say the father of the child passed away. Under current law, the stepmother, even if the child has lived with the stepmother since they were two years old, let's say, would be unable to obtain parental rights to the child since she's not married to the surviving parent. So mother is still alive, stepmother raises the child, married to the husband, can't adopt the child because there's already two parents. Now the dad dies, mom and stepmom want to take care of this kid together, can't do it. Under LB97-- under LB391-- LB331, the stepmother in this case would be able to adopt the child. So if we pass this, they would be able to adopt the child only with the consent of the biological mother and after completing a home study. That's possible even if the, the biological mother does not relinquish her parental rights. Imagine, instead, a single mother moves in with a trusted relative who agrees to co-parent with her. The mother may want the relative to adopt the child through second-parent adoption to provide the stability for the child. Allowing second-parent adoption provides for stability and permanency in the lives of children who only have one sole legal parent. I think about this if my sister's husband died and she said, Wendy, can you move in with me and help me raise these three kids? Right now, she stays home with the kids. She would have to go to work right now under our adoption statutes because I couldn't adopt them and then be the breadwinner for the family. So in all of these cases, the person seeking-- and the point of that was then I would provide the child-- the healthcare. So it's about healthcare. In all of these cases, the person seeking to adopt the child already has a parental relationship with the child in everything but legality. So we're not talking about cases where some person doesn't know the kid, this is a person who already has that relationship and everything but legality. Legal adoption assures financial benefits, including health insurance

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benefits, veterans benefits, life insurance benefits, inheritance with or without a will, and so on. Legal adoption also allows a second parental figure to make medical decisions for a child, take a family and medical leave for the child if necessary, and ensures custody should something happen to the other parent. The best interests of the child should always be the primary concern in adoption cases and in situations where there is a second person who already occupies the parental role in all but legality, it's important to provide a method for legal recognition of that relationship. Lastly, I intended to hand out, and if I haven't I will hand out later to you, two things, both from Susan Sapp. Susan is an adoption attorney that my office worked with on a couple of different adoption bills. We passed one last year. We have one this year. This one right here. She worked with us. She's an expert in the field that is the chair-- the head of the chair of delegates or she was a couple of years ago in the Bar Association and practices in the area of adoption. She's helped us in the development of this bill. She was planning on testifying in person today, but she had to last minute tell us that she couldn't, she couldn't make it. So she sent me the email of what her remarks were going to be and I have the transcript of her remarks from two years ago when she testified on this exact same bill. So I will pass those out to you so you'll have that information. Thank you for considering this bill and I'm happy to answer any questions that you may have. I'm sure there are some.

WAYNE: Senator DeKay, followed by Senator Blood.

DeKAY: Thank you. Real quick, is this-- does this bill deal-- every part of this bill, does it deal with at least one legal parent involved in this or can-- is part of this bill where two people living together aren't married and want to adopt, does that cover this part of it, too?

DeBOER: That's in the bill, too. Yeah.

DeKAY: My question, and heaven forbid that this would happen, but what if two people adopt a child and then separate, how do you--

DeBOER: Well, that-- the court already has to deal with custody issues now with biological children of unmarried parents. So there's a procedure already in place for that and [INAUDIBLE] procedure.

DeKAY: OK. Thank you.

DeBOER: Yeah.

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WAYNE: Senator Blood.

BLOOD: Thank you, Chair. First of all, you did already hand those out just so you know.

DeBOER: Oh, good. Thank you.

BLOOD: I was trying to catch your attention over here. Do we have any numbers about how many more children we think will benefit from this as, as far as adoptions go? Do we have any kind of data or estimate about how-- but we know it's, it's probably going to be substantial that you can find some more homes.

DeBOER: The very last door that I knocked on in my campaign this last time was a woman who could have used this. She-- yeah, there's a whole long story there and-- but they had a situation where she was unable to adopt her own, what was for all intents and purposes, her own child, so. Yeah, there are people out there. The situations occur. I know you're going to ask me this, so I'll just say I don't know to begin. There are other states that do this, I don't know how many, but there are other states that do this. I'm sorry I don't know how many, I'll get that to you.

BLOOD: You know, I don't care what other states do this. We are always talking about how much we value children in Nebraska. If we value children in Nebraska, we need to make sure they have access to loving homes. That's where I at so thank you for answering the question or trying to.

WAYNE: Any other questions from the committee? Seeing none, thank you. First proponent. First proponent. Proponent.

SHILO JORGENSEN: Thank you, Mr. Chairman. My name is Shilo Jorgensen, S-h-i-l-o J-o-r-g-e-n-s-e-n. I'm here testifying in support of LB331 and I thank Senator DeBoer for introducing this bill. I am the mom of an incredible 12-year-old that I am the biological parent of but not in the state of Nebraska-- excuse me, but not in the state of Nebraska's eyes. I'm not his legal parent. My ex-partner and I decided to have our son prior to the passing of the Marriage Equality Act in 2013, thus preventing me from being able to legally place my name on his birth certificate when he was born. Now we ended our relationship without marrying, but also without impacting our ability to parent for the best needs of our son. We are both present, active, and involved in his school, dance, and life at home. Without the involvement of the

courts, we have split custody and we freely and excitedly share his financial burden. We have attempted to best navigate parenting him, but we have been constantly afraid of risks associated with the lack of my legal recognition. My son deserves the same protections as those that have two parents, and both parents happen to be on the birth certificate. Due to current laws, I am unable to cover my own son on my health insurance. And if I was to pass away tomorrow, my biological son, my blood would be subject to an 18 percent tax on his inheritance as opposed to 1 percent. If my ex-partner happens to die in a car accident tomorrow, I would have to prove with extra effort to adopt my own son who lives with me. And when we wanted to switch my son to a school district that I live in this-- a year and a half ago, we had to jump through all kinds of hoops and extra paperwork because I wasn't able to furnish proof that he was legally my child despite my time in helping him with his math homework. And please know I'm here as one of my son's parents and I do not seek to strip the rights of my son's other mother to grant me the rights I'm speaking of today. We both deserve to be his parent and, more importantly, he deserves the protection of legally having two parents that he's known his whole life. And if any of you are parents, I think you can appreciate the lengths we will go to for our children and that's what I'm here for today. And I ask the committee advance this bill. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

LANDON JORGENSEN: Thank you, Chairman. Landon Jorgensen, L-a-n-d-o-n J-o-r-g-e-n-s-e-n.

WAYNE: Landon, can you speak up just a little bit?

LANDON JORGENSEN: L-a-n-d-o-n J-o-r-g-e-n-s-e-n. I am here in support of LB331. And thank you, Senator, for introducing this bill. I don't think it is fair that my mom is not on my birth certificate and only my mommy is. It made me sad and confused when I learned this because I have always known them both as my parents. I think they should both be on my birth certificate since they are both equally my parent. I spend half of my time with my mommy and half of my time with my mom. They both support me and help me to be successful in school, dance, and life. I should not have to worry about if the state of Nebraska thinks that my mom should be on my birth certificate. Everyone knows that I have two moms and I feel super lucky because some kids don't have two parents, some kids don't have any. I have two awesome parents and I am

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proud to call them mom and mommy. I ask that this committee, committee advances this bill for my best interest.

WAYNE: Thank you. Any questions from the committee? Senator Blood.

BLOOD: Thank you, Chair Wayne. And I'm sorry, I didn't hear your first name. Was was your first name?

LANDON JORGENSEN: Landon Jorgensen.

BLOOD: Landon, Landon was the parent that testified before. Is that your parent?

LANDON JORGENSEN: Um-hum.

BLOOD: What kind of dance do you take?

LANDON JORGENSEN: I take tap, musical theater, and hip hop.

BLOOD: Very impressive. I want to ask you one really easy question. Was it kind of scary testifying today?

LANDON JORGENSEN: I mean, I've spoken in public before so this isn't super--

BLOOD: Well, you did very well. Maybe one day you should grow up to be the senator for your district.

LANDON JORGENSEN: Thank you.

BLOOD: You did an excellent job. Thank you. Good job.

WAYNE: Thank you. Any other questions? Seeing none, thank you for being here.

LANDON JORGENSEN: Thank you.

WAYNE: Next proponent. Welcome.

GRANT FRIEDMAN: Thank you, Chair Wayne. My name is Grant Friedman, he/him, G-r-a-n-t F-r-i-e-d-m-a-n. I'm here on behalf of the ACLU of Nebraska. I'm testifying in support of LB331, and we thank Senator DeBoe-- DeBoer for introducing this bill. Like most laws involving our children in this state, the best interest of the children are the foremost importance. This is especially true when it comes to adoption, and our case law reflects that. However, our adoption laws

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are outdated and no longer conform to the reality of parenting in the 21st century. Nebraska's adoption laws do not account for second-parent adoptions, which leaves our children vulnerable. They may not be covered by their nonlegal parent's health insurance plan or if the child is sick or injured, hospital staff may prevent the nonlegal parent from visiting the child in the hospital or from consenting to medically necessary care. In some cases, a child may be ripped from the only home they've ever known if their sole legal parent dies. LB331 brings Nebraska's adoption laws up to date with the reality of parenting in this day and age. Many individuals have children that they love dearly and refer to them as mom, dad, or what other parent word they choose but lack the legal recognition to protect their children. This bill ensures that all individuals that are fit and able to parent are granted the legal benefits associated with those responsibilities of being a parent. Not every child is able to grow up in a home with two parents, but is the job of this body to ensure that every child is cared for in their best interest. LB331 does this and should be advanced to General File. Thank you and I'm available for any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any other proponent? Welcome. Welcome. Go ahead.

DAVID PONTIER: Chairperson Wayne, Senators, thank you for having me today. My name is David Pontier. That's D-a-v-i-d P-o-n-t-i-e-r. I am a family law attorney who practices at Koenig Dunne in Omaha. A large portion of my practice involves private adoption cases. I also serve as the current chair of the Nebraska State Bar Association Family Law Section's Legislation Committee. I am here today and on behalf of my firm, Koenig Dunne, to testify in strong support of LB331. At its core, this bill will increase the number of families who are eligible to adopt children in Nebraska. And it goes without saying that will therefore increase the number of children who are able to have the love and the support of two legal parents. I know Senator DeBoer testified earlier, but as the law stands right now, unmarried persons can adopt children individually, married persons can adopt children jointly, but unmarried persons cannot adopt children jointly. Why? As we sit here in 2023, according to the CDC, 40 percent of children will be born without married parents. We know that 50 percent of our marriages end in divorce. And I can tell you from my experiences practicing family law over the past several years that I can't count how many divorces I have completed where the parents in that divorce had adopted children. And so if the argument against LB331 is that there is some concern for an unknowable future of family instability,

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that argument on its face is ridiculous. As a parent of two daughters, and my wife will be embarrassed for me to admit, the foresight placed into conceiving children, if I'm being generous, usually last in the, the measure of minutes. As a practicing adoption attorney, I will tell you that the foresight, if I'm being conservative, in adopting a child lasts tens of months. Under LB331 for two unmarried persons to jointly adopt a child: they must prove that they have resided with that minor child for six months, they must be fingerprinted, they must pass criminal background checks, they must pass a DHHS abuse registry check, they must pass a DHHS home study, they must prove to a judge that that adoption is in their child's best interest, and they must testify to a judge that they understand that that adoption is permanent, meaning no matter what their family status is moving forward, they will always be on the hook to love and support that child. And inevitably they will spend thousands of dollars in attorneys' fees going through a monthslong court process to do so. It cannot be argued with a straight face that the decision to have a child is more--

WAYNE: Thank you--

DAVID PONTIER: --prone to--

WAYNE: --for your--

DAVID PONTIER: --future family instability--

WAYNE: --thank you for your testimony. I keep it kind of tight on here because we get long hearings if I don't. Any questions from the committee? Seeing none, thank you for being here.

DAVID PONTIER: Thank you.

WAYNE: Next proponent. Next proponent.

CARINA McCORMICK: My name is Carina McCormick, C-a-r-i-n-a M-c-C-o-r-m-i-c-k, and my salutation is doctor. When Senator DeBoer gave her opening and talked about that thing with the mom and the stepmom, you might have been thinking, like, what a crazy hypothetical. Why is she bothering with this weird example? That's actually my story. I called her office yesterday and made sure that this applied and you're going to have to be patient with me I don't normally talk about such personal things, but when I was in college my dad got shot in his femoral artery when he was on blood thinners and there was so much blood in the street I was told that they assigned

the investigation to the homicide and he spent all morning receiving one transfusion after the other and they, they really thought he was going to die. And my stepmom was there with him and my stepsister and my stepbrother was there with him. And if he had died, not only would I have lost my dad, I would have lost half of my family. And I've had 20 years with the family that I have and that I love so much. And the reason I'm crying, of course it's sad thinking of my dad dying, but I literally cannot imagine my life without the family that I have. And we don't even talk about the fact that we could have lost that because it's too horrible for any of us to be willing to imagine that our family would have ended the day my dad died. And maybe you don't have to think about all the different ways that families are and that families are important to each other and all the things that make up a family. And this bill makes it so you don't really have to. This bill makes it so all of the combinations of what is a family can be incorporated so that children can have two parents under the law who love them and are legally required to support them, and that their stepsiblings are really their siblings and their stepsiblings' children are really going to be their nieces and nephews like my nieces and nephews are for me today. And, you know, my family believes that it was through prayer that my dad lived and let it be so that when I did graduate eventually from UNL I was able to list in the program the three parents that I had. This bill only recognizes the two parents. And I understand that, but she was my-- she's legally my stepmom now as long as my dad is alive so she-- I do have that, that legal tie to her. And the last thing I wanted to mention is I do appreciate that this bill includes adult children, because as bad as it would have been to lose my whole family, what if all of my younger siblings were able to be adopted but since I was in college I wasn't and that I was kicked out of the family basically just because I wasn't a minor anymore, so. All right. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent. Proponent. Welcome.

JACOB CARMICHAEL: Thank you. Sorry in advance for being a little bit late. I was working on something else before, so I don't know if my topic has necessarily been covered, but as it is it's something important to me I would like to cover it. My name is Jacob Carmichael, J-a-c-o-b C-a-r-m-i-c-h-a-e-l, and I'm here today in support of LB331. The reality of, the reality of our situation is that-- I don't know, I'm about to cry again. Queer rights are under attack and I am sick and tired and I am hurt every day by things I hear from this body, from Congress, from [INAUDIBLE] of this world. And I do want to adopt

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one day. I have beautiful cousins that my aunts and uncles adopted, and I want to be in that situation as well. And I want to be with a loving partner who can also be a parent because that's what every child deserves the ability to have. The Supreme Court has acknowledged in briefs, although some concurring opinions, the initial ones didn't state it, but concurring opinions and differing legal opinions and scholars and all of that and we know that Obergefell v. Hodges is likely on its way to be overturned. This body does have a bill going forward to overturn the constitutional ban, but I'm here so that I can be with my family. And the choice to either be with my parents and grandparents or move somewhere where I can have my own family, it's not one I should ever have to make and not one that will be good for [INAUDIBLE] people, [INAUDIBLE] future generations. I did not expect to end up crying and that's great because I'm expecting to testify on probably six or seven more bills today. Yeah, that's it. Thank you.

WAYNE: Thank you. Any questions from the committee? I've just got one. Are all the bills you're testifying on are in here today? [LAUGHTER]

JACOB CARMICHAEL: It'll be a few more in here, but I'll try and sit over on that side--

WAYNE: No, I appreciate it.

JACOB CARMICHAEL: --because I'm going to [INAUDIBLE].

WAYNE: No, and I appreciate our conversation so just wanted to say that. Thank you for being here.

JACOB CARMICHAEL: Yep.

WAYNE: Next proponent. Next proponent. Switching to opponents. Any opponents? Welcome.

MARION MINER: Thank you. Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Conference opposes LB331 because in our view it fails to provide adequately for the rights of children. I do want to say from the, from the outset that we've listened to a lot of, of very sympathetic, real stories today, and, and I certainly sympathize with them. I'm sure the bishops would sympathize with them. And so I do think that in the

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event children do find themselves in these situations, we do owe it to them to find a way to resolve those in ways that are going to be best for them. But LB331 would change current Nebraska law, which has been interpreted to require two adults who wish to adopt a minor child to be married to one another, to instead allow the adoption of a minor child by two adults regardless of their relationship and absent any commitment to each other. LB331 thereby diminishes the rights of the child to familial stability and permanency in favor of the desires to adopt by adults. That is not a just arrangement for the child. If two adults cannot make a commitment of permanency to each other, it makes little sense for the law to invite them to invite children into their home together, assuming they live together at all. Every child is a gift and a trust to his or her parents, and every child has the natural right to a permanent relationship with his mother and father. When a permanent, stable relationship with his natural parents is made dangerous or impossible because of a tragedy, children have a right to a permanent relationship with adoptive parents who have made a permanent commitment to the child and to each other. Marriage as a civil institution has been a recognized, privileged, and regulated by the state for centuries precisely because of its "protectivity" of children. That's the reason for the institution. In binding parents to one another with an expectation of permanency, marriage protects the legitimate rights of the child which the child cannot assert for himself. LB331 diminishes the rights of adopted children by removing expectations of permanency and stability from the picture. We urge the committee to consider some possible harmful consequences, and I'll skip to the end since I'm running out of time. Most fundamentally, apart from some less likely scenarios in the preceding paragraph, which I skipped, permanency of adult relationships is not expected or required by LB331. It is not difficult to imagine that split households, each with parental rights, will be common. This is not conducive as a general rule to the best interest of the child. LB331 undermines the very important right of children to, to stability and security in the family by removing a legally recognized expectation of family permanency that exists for their protection. I see my time is up so I will conclude and I'd be happy to answer questions.

WAYNE: Any questions? Senator Blood.

BLOOD: Thank you, Chair Wayne. Thank you for testifying today. I know you had to talk really fast and I was trying to catch up.

MARION MINER: Sure.

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BLOOD: Are you saying that if indeed we were to legalize marriage then between, say, a same-sex couple that then you would support this bill? Because if what I heard you saying is that you feel that marriage is something that's permanent and that every child deserves to, to grow up in a home such as that, so did I hear you correctly on that?

MARION MINER: For that last sentence, sure. I'm not sure if I understand your full question, though.

BLOOD: OK, so, so if indeed we were to-- I mean, it's already, it's obviously already legal, but I'm saying it's not in our own state constitution. If we were to take that next step here in Nebraska and say that we lift up and support same-sex marriage, for instance, would that change your opinion? To me, what I hear you saying is that they have to be married in order for the child to be embraced.

MARION MINER: They don't have to be married for the child to be embraced, but what we're saying is that there's a reason that this law has existed in the way it does for the amount of time that it's been in place. There's a reason that the law is written as it is.

BLOOD: What is that reason?

MARION MINER: The reason is because children deserve-- the whole reason for the institution of marriage is to unite two parents to each other and to any children that result from the union. And without that, right, with a child being deprived of their mother or their father, they lose something real, not only part of their identity, but also something that only a mother or only a father can give them.

BLOOD: What if that parent is abusive? What if that parent is [INAUDIBLE]?

MARION MINER: That's-- that, that is a different situation that calls-- that call-- that's an exception to the rule that calls for a different response and those exist.

BLOOD: So being Catholic, I have a very clear understanding of what our expectation is for our faith. But when I look around in the world, I see that different faiths, people who have no faith, they have different expectations of what a family is. Why is it up to us to define what marriage is, define what adoption is? Why can't we just accept that there's differences?

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MARION MINER: I would say that the burden is on, is on the proponents of a change to something that has been in place for, for millennia. The understanding that has been in place for millennia. If you're going to make a change, especially when you're dealing with such intimate and important and foundational seminal things as marriage and parent-child relationships, which is always part and parcel of marriage or is, is anticipated to be part and parcel of marriage, then the burden lies with the person who wants to change to make the case for it and to overcome the original rationale for why we have always done things the way that we have. And it's ordered to the best, to the best interest of children. And that's not just some sort of intuitive thing that we know, although we do from experience, it's also-- this is-- and this is found time and time and time and time again in social science over decades and decades of research, that is the best environment for the child on the whole and in general exceptions certainly exists.

BLOOD: But as this bill is written, to me-- I mean, the burden is clearly on those who want to adopt. True?

MARION MINER: I'm not sure I understand your question.

BLOOD: Well, you're talking about the burden of making sure that the right people are the ones that are doing the adopting. Is that the correct interpretation?

MARION MINER: Well, what, what I'm saying is that, what I'm saying is that the burden is if, if we're going to-- excuse me, if we're going to tinker with such things as how, how if-- what our state policy is going to be with regard to adoption and what, what type of, what type of incentives that we're going to build into that process. The burden is on those who would change the law to show why we should make the change that's being proposed. What I'm saying is, is that that burden hasn't been met. And in fact, there are potentially some very negative consequences that could result from that as a result of this sort of lack of stability and permanency as a result of the parents not being committed to one another.

BLOOD: I'm not sure that I agree with that, but I appreciate your honest answer.

MARION MINER: Sure. Thank you.

BLOOD: Thank you.

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WAYNE: Any other questions from the committee? So we think two people who aren't-- it could-- you put it in here, it could allow near total strangers to adopt a child together. We just think two random people are going to [INAUDIBLE]?

MARION MINER: No-- well-- so that was-- that's why I'm talking about however unlikely, right, in, in that paragraph. What I'm saying, what, what would the letter of the law actually allow for? That is something that the letter of the law, as proposed, would allow for. Now, that's unlikely probably because they're going to be going through a home study and so on. But that's what the letter of the law would allow for. And I would say as, as a baseline matter, there are just some lines that we ought not to cross and we just ought not go there.

WAYNE: OK. So but, but doesn't this-- doesn't the bill call for there has to be a relationship with the kid and with the parent? I mean, isn't-- I mean, you can't just randomly go adopt somebody without proving that you have a relationship. And as a guardian ad litem typically appointed to investigate most adoptions, the court typically appoints a guardian ad litem to verify that the new stepfather in this case, the two cases that are currently got, have some kind of relationship in the home. We typically visit him in the home. We typically-- so I-- I mean, I wouldn't recommend, while the law calls for six months, I don't think I've ever recommended in adoption cases if somebody hasn't lived there for at least a year. I'm, I'm just trying to think of when I-- I don't think I ever as a practical matter, nor do I know any other GLAs who have-- yeah, the standard is about a year of kind of knowing that kid, if not longer. So I'm just-- what gets you to neutral? What would you like to see? Let's just, let's just cut to the chase. What, what, what is it?

MARION MINER: Oh, gosh, that's a good question. I'm not sure if I can answer that right now. I'm-- so we all have an interest in making sure that-- you know, we heard some of these cases which, again, are very sympathetic, I think would move anybody. So then the question is, how do you, how do you take care of those situations while still not sort of incentivizing relationships whereby there's-- it's much less likely for there to be permanency between the two adults who are adopting a child together, a permanent relationship. That's what we want to see. Traditionally, you do that through marriage. That-- that's, that's the reason for the institution. That's why we do it. That's how we know that they're serious about committing to each other. So is, is there a way to amend this bill to solve that problem? I'm not sure, but I'm,

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I'm certainly open to investigating it. If you have any suggestions, I'd be happy to hear them.

WAYNE: Well, I mean, not, not right now. I just-- I mean, the, the, the hypotheticals you, you posed in your letter just-- I mean, under that scenario of, of two random people not necessarily committing to each other to adopt a kid then is the position that you would be against-- I mean, can't two people just randomly get married one night?

MARION MINER: Yeah, they, they could. Yeah, sure.

WAYNE: I mean, they do. Right?

MARION MINER: Uh-huh.

WAYNE: Let's just be honest here. Right?

MARION MINER: Sure.

WAYNE: They say-- yeah, they say, you know, let's go to Vegas and get married. So, I mean, I guess that's what I'm trying to figure out, like, what's the real issue? I'm trying to because-- never mind. You know, I really want to today, but I just can't. It's, it's been a long week and it's only the second bill, so. OK, any other questions from the committee? Senator Blood.

BLOOD: Thank you, Chair Wayne. I promise a quick one. OK, so we talked a little bit about two people adopted-- or individuals that aren't married adopting. But I didn't hear you say anything about adding on a parent. For instance, we talked about-- when the first testifiers talked about had their dad died and her mom and her stepmom--

MARION MINER: Yeah.

BLOOD: --how does, how does the church feel about that or the diocese?

MARION MINER: I don't know. I, I, I will say that is not the scenario that I-- that's not a situation that I have certainly analyzed to be prepared to answer today. But again, that's one of those cases, again, that I referenced. I think anybody would sympathize with that case. And so, of course, what's the best, what's the best solution? I think we ought to have one. I, I don't know what it is right now, though.

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BLOOD: So you're saying the first part definitely. Again, second part, not really prepared to give an opinion, but you aren't necessarily [INAUDIBLE].

MARION MINER: Sure. Yeah. What I'm really focused on is, is this case of two unmarried adults who want to adopt a minor child.

BLOOD: But doesn't every child deserve to have a loving home?

MARION MINER: Of course they do. That does not-- that truth does not sort of lay out then a comprehensive-- comprehensible, I should say, public policy, which requires us to get into the details, which is what we're doing here.

BLOOD: Thank you.

WAYNE: Yeah, I'm not going down that rabbit hole. Any other questions? Seeing none, thank you for being here.

MARION MINER: Thank you very much.

WAYNE: Next opponent. Next opponent. Opponent. Anybody testifying in the neutral capacity? Neutral capacity? As Senator DeBoer comes up to close, we have 17 letters of record, 10 for support, 6 in opposition, and 1 in neutral. Welcome back, Senator DeBoer.

DeBOER: Thank you, Senator Wayne. So I thought this was a, a great hearing. I want to thank everybody who came to testify. What I'm asking, there's two parts of this bill, and you heard that here. There's one allowing two parents to-- two people to joint-- jointly adopt regardless of marital status. That's one part. That appears to be what the objection was about. Then there's another part, which is we've already got two parents, they have a relationship with the kid, one of them is not adopted, they're not married to each other because they're stepmother and mother or they're, you know, a number of different things. If this committee would like, we can separate those two parts. We can separate those two parts and, and just do the part where we say, look, we want to make the legality match the reality. We've got someone who's got a parent in everything but legality, which means they cannot get any of the financial-- I mean, if we're talking about millennia-- it has not been millennia that has been that a parent couldn't-- a, a person who was not the actual legal parent but was a parent in everything but name only couldn't sign a permission slip. A permission slip is a pretty new invention. It hasn't been millennia that we have the obstacle of one person who has a parental

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relationship with the child wants to have that child. Everybody recognizes that they're the parent, except the law, can't provide the health insurance for that child. I just want to make the reality and the legality possible to match up for people who we can establish under law through whatever kind of scrutiny we want. We have a process for this with-- we, we used the language for foster parent kinship placement when we were developing our law here and we said, OK, how do we make sure, do our due diligence, to make sure that these kids really already have a relationship with that person? So we know this is someone who's already doing everything, the love is already there, the caring is already there, the recognition from the child and from the parent about this relationship is already there. We just want to make the legality there so that they can provide the legal things, consent to medical treatment and the financial things like all these insurances and other financial benefits, like being able to inherit not at the higher rate, all of these different things. We just want to make those things all the same for people who already have this relationship with someone who are in this committed parent-child relationship already. That's, that's the most important thing to me is to try and take care of these kids that exist in that way. So anyway, I think there's some work that we can do to make the objections go away, hopefully. And, yeah, happy to talk anymore if anyone else has any questions.

WAYNE: Any questions from the committee? Seeing none, thank you. And that'll close the hearing on LB331 and we'll take a quick--

[BREAK]

WAYNE: All right. All right. I'm still-- hello? I don't gavel. I'm not going to gavel. I swear I'm not. All right. Welcome back to Judiciary. We are going to get this moving. Welcome. We'll open the hearing on LB169. Senator Hunt, welcome to Judiciary.

HUNT: Thank you. Good afternoon, Chairman Wayne and members of the Judiciary Committee. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here to introduce LB169. LB169 would prohibit employment discrimination based on sexual orientation and gender identity. This committee has seen this bill many times, most recently from me in 2021 with LB120 and from Senators Pansing Brooks, Morfeld, Conrad, Chambers, and many other before them. And I actually made a note because there's an interesting history of this bill. This bill was first introduced in 1994 by Senator Tim Hall, I believe, and so it's been tried longer than some of these testifiers in the room have been alive and

hopefully the 16th time is the charm. Under Nebraska law, employers can legally discriminate against employees or prospective hires on the basis of their gender identity or sexual orientation. This means that LGBT Nebraskans can legally be denied job opportunities that are otherwise qualified for, endure harassment or retaliation, have their hours cut, be given less preferred position assignments, or even be fired based purely on who they are or who they love. A question I get with the Supreme Court *Bostock v. Clayton County* decision that found discrimination against LGBTQ people in employment to be unlawful, people ask why is this bill necessary in Nebraska? And I can explain that to you for several reasons. After *Bostock*, the Nebraska Equal Employment-- Equal Opportunity Commission had to begin processing cases on the basis of sexual orientation and gender identity. I had extensive discussions with the Commission over the past few years on this topic, and they informed me consistently that they would be able to more expediently complete their investigatory duties if we had this minimum standard in state law. Without clear coverage in state law, cases have to be taken federally. And when the state law doesn't at least mirror the federal baseline, it creates inconsistency. The Equal Employment Commission-- Equal Opportunity Commission, sorry, said that smaller businesses that don't have legal counsel often don't understand their rights and responsibilities, and the NEOC ends up having to educate them. Getting this into state law would allow the NEOC to fully leverage all federal funds available to help protect Nebraskans from discrimination. They also indicated that clarity in state statute and the ability to leverage federal funds could also help them conduct education and outreach efforts for employers about what their rights and responsibilities are to protect themselves and avoid costly litigation. And that's from the NEOC. As it stands today, we have a patchwork of federal, state, and local laws that have different employment thresholds, which create uncertainty for employers-- employees and employers. Litigating in federal court is costly and time-consuming for all stakeholders. By passing LB169, we provide an avenue for recourse, a state or local court instead of a federal court that is more accessible and affordable for all parties. It costs nothing for employers to not discriminate against workers based on their identity or sexual orientation. If someone is doing a bad job, you can demote them or fire them. All companies would still have that right under this bill. Maybe the worker isn't a good fit for your business for some reason based on the behavior or their interactions with customers or something like that. Employers can still deal with that as they see fit. It's just that under LB169, no employer can give an employee less hours or fire them or refuse to

consider them for a promotion purely because they're gay. Business leaders see this as essential to economic growth. The Omaha Chamber has told me their membership is considering this a priority this year and is willing to throw more support behind it than ever before as part of their recruitment and retention efforts. Representatives with the Omaha Chamber told me they'd heard about talent recruits not wanting to come here for fear of being unprotected. So this is not just some abstract fear, it's really happening. Polling shows that 75 percent of Nebraskans support these protections, including 67 percent of those in small towns and 82 percent in medium and large cities. The fact that Nebraska's laws don't reflect the beliefs of our state citizens makes us look closed-minded and aggressive. I conducted an informal survey on social media about this issue, to which hundreds of Nebraskans responded. One of the key takeaways of that survey was that young people don't want to live in a place where the culture doesn't reflect their values. Workers are hesitant to stay or come to a state that doesn't offer protections and security to their positions. Creating a home in a community that doesn't legally support you is very difficult. We're competing with our neighboring states for top talent, and we cannot afford to be a state that tells young people they are not welcomed here. This bill also has an amendment, AM10, and that was filed in January so it's been viewable to the public for quite a while. The green copy of LB169, the original bill, and the bills of others before this bill have only applied to employers with 15 or more employees. The reason for this is that our Nebraska employment laws on the rights of employers and employees are, for the most part, contained within the Nebraska Fair Employment Practice Act, which only applies to employers of 15 employees or more. With this amendment, AM10, which is already filed on the bill, I decided it's worth the body considering a measure that would apply these protections to employers of all sizes. This is done by creating two classes of employers and defining them Class I employers and Class II employers for those with more or less than 15 employees. The gender identity and sexual orientation antidiscrimination provisions are applied to both classes of employers while exempting the smaller employers from other requirements of the act. The Nebraska Fair Employment Practice Act contains many sections with various requirements for employers. I know that in past conversations about why that act should apply only to 15 or more employers, I've been told that the law was structured so to basically not overregulate small businesses out of business. There are some administrative requirements that in that act that arguably I agree are way more feasible for larger employers to implement. It would be way more difficult for a

small employer with fewer than 15 employees to fulfill. For example, accommodations for pregnant women or people with disabilities can be harder for an employer of just a handful of employees to implement. As a small business owner, I do recognize that there are some things that larger companies can do with their HR departments that are easier than small businesses. It doesn't mean it's right or wrong. It means I totally agree that it's easier for big businesses to do some of these things. But the spirit of the amendment is that without picking apart the other requirements of the Fair Employment Practice Act that I don't think need to apply for smaller businesses for the purposes of this bill, we are only applying the antidiscrimination provisions to smaller businesses in LB169 because, you know, to not fire someone and discriminate against someone based on their race, national origin or ability or sexual orientation or gender identity or sex, it shouldn't matter. It's free. No one has to do that. Businesses of 15 employees or less can do that, too. I will be here to close and I'll listen to all the testimony. And with that, I'll turn it over to our testifiers. And I'm happy to take any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. First proponent. Welcome to Judiciary.

JOSEPHINE LITWINOWICZ: Thank you. Pope John Paul, by the way, he's, he's, he's "incrementing". He's, he's doing it. My name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z, and I represent the Higher Power Church and there are some of the papers, some of what I wrote. I put pen to paper at about 11:00 last night and it's not actually very good so it's a rough draft. So what I have to say is, you know, in the wake of Nebraska legislative measures, comprehensive attacks so far this year on trans youth within at least a few of 2023's introduced legislative bills, as evidenced merely by Senator Cavanaugh's statements on MSNBC very recently and very disheartened to recognize the desperate need Nebraska has to protect trans youth and all of the LGBTQ+ community from discrimination. We need the same protected status as just about all the other smaller clubs have already. We need the same protected status as just about all other issues. We have-- discrimination is, is based on ignorance-- discrimination based on ignorance-- oh, discrimination based on ignorance roots easily anywhere and it is rooted here in Nebraska within some of the-- in the State Legislature itself, as well as the office of Governor Pillen and previously Governor Ricketts. He doesn't think I, I exist. And, yeah, that's, you know, that's a real-- you might not understand how much of a problem that is. It's phenomenal. And the, the, the-- I'm saying the former Speaker of the Legislature,

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Mike Hilgers, now the Attorney General, and this is why we need it. He discriminated against me based-- was technically, you know, get-- for disability that I was targeted to. And I can prove it from a phone call. And I'm not going to-- you know, I was-- obviously, I, I was-- I, I got the-- I wrote something too long and it's bad anyway. But, you know, so that's why and I'll, I'll say it right here, I don't care he can, he can do whatever he wants. He can, you know, get a lawyer. I really don't even care. I'm ready to toss this yonder like a rind, you know, this is so depressing. Anyway, sorry, didn't mean to-- I'm trying to relax.

WAYNE: That's all right. Thank you. Thank you for being here. Any questions? Seeing none, thanks again. Next proponent. Welcome, sir.

SCOTT MOORE: Chairman Wayne, members of the Judiciary Committee, for the record, my name is Scott Moore, S-c-o-t-t M-o-o-r-e, chief administrative officer at Union Pacific Railroad. I'm here today to urge your support of LB169 from Union Pacific, as well as the Nebraska State Chamber of Commerce, which I'm immediate past chairman of and as well as the Ameri-- the Nebraska Economic Development Association. I've submitted a letter from our CEO, Lance Fritz, the page is circulating. You know, it's one of those things, 1980, I started as a page in this room and this committee so 43 years ago. And as Senator Hunt said '94, I was a senator at that point in time. So it has been a long time. But this is the first time I've testified on behalf of UP in 22 years. And the reason I'm here to this bill and this issue is important to Union Pacific by virtue of the chamber and this is important to the business community in the state of Nebraska. At Union Pacific, we know, we believe a diverse workforce makes you better when all the people in the room with the same people will have the same ideas. When you get a diverse group of people with diverse thought you stretch your thinking, you stretch your ideas, and you have better ideas. When you're a Fortune 150 company, you have to retain and recruit talent of all types to Nebraska. And that's why we're here, because I have long said one of the biggest threats to a company like Union Pacific, and I'm the Nebraska born one of management UP, one of the biggest threats that UP in the long term being in Nebraska is the inability to, to recruit and retain a diverse talent. It's one of those things where some will say, well, you know, that's just a perception. That's not reality. Well, I'll, I'll give you reality. In the last two years, I wanted to promote somebody that worked for me to come to Omaha for a promotion, an existing UP employee. He said, no, I don't feel welcomed in Nebraska. My husband could get fired for no reason in Nebraska. I don't want that promotion. Now that person

worked for UP, knew about UP and still said no. And if that person has that perception, think about when I'm trying to recruit on the East Coast or West Coast come to Nebraska. It's things like that Nebraska simply has to make a statement like this that we're welcomed. And it's that important to a company like Union Pacific, and that's why I'm here. Going back down memory lane 30 years ago, I closed on a bill, the TEEOSA bill that you talk about now, and the laughing, some people say I shouldn't admit that one, but you're still talking about it so I was right. As I said then, nothing can stop an idea whose time has come. Well, I think LB169's time has come and Union Pacific, the State Chamber, and the Economic Development Association encourage you to advance this bill.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

SCOTT MOORE: Thank you, Senator.

WAYNE: Next proponent. Welcome.

NATE DODGE: Thank you, Senator Wayne. Thank you, committee. My name's Nate Dodge, N-a-t-e D-o-d-g-e. I'm on the executive committee of the Omaha Chamber, and I'm also representing the Lincoln Chamber. Someone far more important than me was supposed to come here today, but they were called out of town out of business. So I want to start off with an apology, which is normally when I go to speak to a group like this, I would have come and visited you all in your offices first to see where you were. I promise to come back and talk about this if, if, if, if you would, would have me. But when I found out about this yesterday, I happily filled in because this is such an important topic. My testimony is simple. The Omaha and Lincoln Chamber support LB169 because it's good for business. In a state where we struggle to find and retain talent, we have incredibly low unemployment here, which is terrific, but it also means it's, it's also tough because we need talent and it makes no sense to take the risk that anyone in Nebraska might discriminate against any potential employee simply because of something that has nothing to do with their talents, their work ethic, or their specific skill set. Our organization support is based on several factors. First, we believe that passing a law like this is the right thing to do. Our chambers do not believe in discrimination of any kind, and we believe that employees of companies in Nebraska's-- in Nebraska have a right not to be discriminated against by their employer. Second, we actually believe that this will have an economic effect for our state. Employees who are considering

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where to live weigh a wide range of factors. And increasingly, the story that Scott just told you is occurring in our city. Talented people want to work in an environment that is open, welcoming, and nondiscriminatory. At the chambers and, frankly, in our, in our business that we have, we work every day to get these talented employees to move to and stay in Nebraska. It's not just employees who focus on this issue, but also employers. They make choices every single day where they want to locate their business. Relocating companies consider this issue when they are picking a place to put and grow their business. There are some who will argue that this bill will create an unnecessary burden and costs. Omaha's passed a similar bill that's actually more restrictive 11 years ago in 2012, and there have been very few claims or cost to businesses as a result. I ask this committee to advance this LB169 to full Legislature. It's worth noting that our neighboring states of Iowa and Colorado prohibit such discrimination as do 21 other states and Washington, D.C. As we fall behind and our image appears to be a state that is not welcoming, that means we are losing more good talent, more jobs, and more people to these other states. We have a wonderful state. Our greatest asset is our people. I kindly ask the members of this committee to advance LB169 and allow for our state to further grow and benefit all of its people for generations. Thanks for allowing me to be here today and I welcome any questions from the committee.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: OK. I have to ask since you--

NATE DODGE: All right, Senator.

DeBOER: --you baited us with it. Who are you filling in for?

NATE DODGE: Lance was supposed to get here but he's out of town so, so you get Scott and me, so.

DeBOER: Well, I'm very glad to have you here. I think this is great.

NATE DODGE: Honored to do it and, and I was honored to be asked.

DeBOER: Thank you so much for coming in and, and talking on these issues for us. This is really helpful for us when we're talking about these things on the floor to know the people who are on the sort of the ground floor who are doing this trying to bring people in and trying to talk to folks from other states when they're recruiting. You

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know, we have workforce issues. You all are the ones who are on the front lines of that so I appreciate your testimony.

WAYNE: Any other questions from the committee? Oh, Senator Blood.

BLOOD: Thank you, Chair Wayne. Quick question.

NATE DODGE: Yes.

BLOOD: So listening to you and the, the prior testifier--

NATE DODGE: Yeah.

BLOOD: --wouldn't some of this problem also still be solved if we stopped being an at-will state?

NATE DODGE: If we stop being an at-will state?

BLOOD: So, for instance, if you worked for me and I don't like your jacket because it's blue and I'm wearing blue today, I can fire you because I don't like your blue jacket. That's at will. That's an extreme example, but. So in Nebraska we could basically fire you for any reason outside of discrimination. So it's really easy to say, well, we didn't do it because we didn't like something about that individual. So, for instance, firing somebody because they had a picture of their husband on their desk, it's easy to say, well, no, I fired that person because their work just wasn't up to par or whatever. I hear these stories and I-- I'm in agreement with you that we need to make sure that we are truly open for business--

NATE DODGE: I agree.

BLOOD: --to everybody, no matter how they identify.

NATE DODGE: Right.

BLOOD: But at the same token, if we don't change at will as well, isn't that leaving a loophole for people?

NATE DODGE: So since I did not write this bill, what I would like to-- I'd like to answer--

BLOOD: I'm sorry I put you on the spot. I should have asked before you but I want to--

NATE DODGE: No, and I'd like to answer in a way that--

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BLOOD: --hear all the testimony.

NATE DODGE: I believe a, a bill like this is written in a, in a, in a manner where an employer like ours, like ours or Mr. Moore's, we, we deal honestly with our people and we would-- the reasons why we would let people go. I, I don't know how you legislate people not being truthful.

BLOOD: Well, you can't.

NATE DODGE: But I'm-- I, I can only speak to how this particular bill would be-- would make it illegal for, for these, these to be called out and added to a list that I think is, is worthy.

BLOOD: That's fair. I'm, I'm hoping to maybe hear the answer from somebody today, so.

NATE DODGE: OK.

BLOOD: Because I feel it's kind of a compatible thing, so. Thank you.

NATE DODGE: Certainly.

WAYNE: Senator DeKay.

DeKAY: Thank you. Real quick. You don't have to answer this if you-- how many employees does UP have? You don't have to answer.

NATE DODGE: I'm not-- so I work for the NP Dodge Company.

DeKAY: OK.

NATE DODGE: So we have roughly 600 employees and around 400 independent contractors. UP--

_____ : 30,000 employees.

NATE DODGE: UP has 30,000 employees.

DeKAY: OK. How many, how many states do we-- does UP do business-- can I ask him that or not?

WAYNE: No, no, no, we're not going crazy here.

DeKAY: No. OK.

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NATE DODGE: They're all across the United States. I do know that.

WAYNE: Everything west of the Mississippi.

DeKAY: Yep.

WAYNE: I used to work for UP a long time ago. Any other questions?
Seeing none, thank you for being here.

NATE DODGE: Thank you.

WAYNE: Welcome back.

JACOB CARMICHAEL: Thank you. Promise I won't cry this time. Sorry to everyone, I'm running to Government Affairs [SIC] after for the combined hearing. My name is Jacob Carmichael. And spell it again, J-a-c-o-b C-a-r-m-i-c-h-a-e-l, and I'm here today in support of LB169. This is a commonsense bill. I'm here to follow up with somewhat of a personal example of the support of the major companies and the chambers of commerce. Conservative senators and the Governor are right when they talk about issues with brain drain and needing people to come back to the state. But the answer isn't taxes, it's legislation like this. I'm gen-z. There's more-- I'm a queer person as well. There's more LGBTQ people in my generation than any other one. My generation is significantly more progressive and significantly more supportive of LGBT rights. Protecting those rights and protecting discrimination based on gender identity is setting Nebraska towards a mostly national standard, as well as making it a safer place for someone like me to move back to. I went to school in New York and wanted to stay there after. I'm back for my family. But I'm an example of brain drain. I'm an example of I didn't feel comfortable in this state. I didn't feel comfortable with the fact that I could lose my job or be discriminated against and I had no legal recourse. Not by any instance a type of refugee from this state or that as I am back, but I certainly would like to have the security that I had in New York. This is a commonsense solution to the issue that we all recognize. It's a solution for every business. It's a solution for equal opportunities. It's common sense. There's no reason to oppose this legislation. It's been proposed since 1994. I am confused why it hasn't passed this body yet, but you have the opportunity now. It's not worth putting off another year because that's another year of losing people who could be moving here and who could be bringing in revenue and everything to the state. Thank you.

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WAYNE: Thank you. Any questions from the committee? Thanks for being here. Good luck in Government. Next proponent. Welcome.

ALLEN FREDRICKSON: Good afternoon, I'm-- Chairman Wayne, members of the committee. Thank you for your time and for considering this legislation. I'm Allen Fredrickson, A-l-l-e-n F-r-e-d-r-i-c-k-s-o-n. I'm here today on behalf of being a father, a grandfather, founder and a business owner of Signature Performance, a healthcare company headquartered in Nebraska. Signature started with a handful of people in 2004 and today employ over 1,000 people with the expectation to double our size in the next three to five years. I'm here in support of LB169 for one-- for several reasons. One is I believe it's ethical, moral, and right thing to do. It's consistent with the Nebraska way that I'm familiar with, and that is the good life for everyone. This law is needed to ensure the LGBTQ community feels protected from employment discrimination. I know from concerns I have heard firsthand that members of the LGBT community have been directly or felt the threat of discrimination. It goes a long way to making sure our fellow LGBT community members, neighbors, friends, and family feel welcomed, supported, loved, valued, and heard here. Additionally, this legislation let's those know that are affected by it that they can put roots down here, live here, thrive here, prosper here, and being responsible citizens. From a business perspective, it's essential that we do everything we possibly can to welcome all talent so that the state can overcome a desperate challenge that we faced for many years. And that is a workforce shortage. I chaired the Labor Availability Council for several years, know this issue rather firsthand, and I can tell you if we can help solve for the 50,000 to 75,000 open jobs in this state, think about the impact that will have on small town rural Nebraska communities. Think about the impact it'll have on our urban communities. And I can say from a business standpoint, I know enough business people that if we can solve our workforce issue, we'll build new plants, we'll build new offices, we'll create new products. We'll take this as a momentum and make it forward. And my final comments, because my predecessors had a few things that, that I thought they said very well, I think it's really an honor and a privilege and an opportunity for this committee to advance this legislation that has such an important impact on our state and can have such a great impact on the people in this state to make them feel welcomed, loved, heard, and valued. Thank you for your consideration and your support.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

SCOTT BARKER: Thank you. My name is Scott Barker. It's S-c-o-t-t B-a-r-k-e-r. Chairman Wayne, Senators, it's a privilege to be here and I want to thank you for the opportunity and for your service. And I note that it's Nebraska's birthday, and I'm feeling pretty excited about coming and, and being part of our civic life today on this auspicious occasion. I am the bishop of the Episcopal Diocese of Nebraska, which includes 51 parishes across the entire state, including parishes in every single one of your districts. We have been here for 155 years. I am proud to represent thousands of faithful Christians before you today and to speak in support of LB169. The Episcopal Church has a long history of siding with groups who are being marginalized and discriminated against by the larger community. We believe that every human being is created in God's image and deserves a chance to flourish. The Episcopal Church has allied with the LGBTQ community for decades and we certainly believe that basic employment protection is a bare minimum commitment to any minority community. Now I'm here today, though, equally for very personal reasons. And I want you to know that crying is one of my superpowers so don't, don't worry about it. My daughter Emily [PHONETIC] is queer. Emily began her education in Nebraska in our public schools and after leaving for a time to attend college elsewhere, she delighted her mom and I by deciding to come back home to make her adult life here. She fell in love here. She was married in the church. She's gotten a job serving kids in a big social service agency, and she's now back in school at UNO getting an advanced degree. We are very proud of her. She and her spouse recently bought their first home here where they spent their weekends-- where they spend their weekends fixing things up and in season cheering for the Huskers. Life as an LGBTQ couple has not been easy, but when they have been disrespected or shunned by neighbors or folks in their classrooms or in their workplaces, they have pulled together and they have stuck it out. Emily is a seventh-generation Nebraska. But my friends since this body has gathered for this legislative session, she and her spouse have begun readying themselves to leave their home and move away. They experience as targeting and just plain mean several of the bills that this body has advanced in this term. All they want to do is live in a place where they are supported and welcomed, where their jobs and marriage are secured by law, and they wanted that to happen in this place. I beg you, if you are serious about the future of this state, if you want businesses and nonprofits to hold on to great young people--

WAYNE: I'm trying to cut you off, I'm pretty strict about that.

SCOTT BARKER: --then you need to pass this bill.

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WAYNE: All right. I like that. Any questions? Hold on, there might be a question. OK. Maybe not. All right. Thank you for being here. Next proponent.

CARINA McCORMICK: [INAUDIBLE]

ANGENITA PIERRE-LOUIS: It doesn't start.

WAYNE: No, it doesn't start until you sit down.

CARINA McCORMICK: Thanks.

WAYNE: We used to have this thing in Urban Affairs. We would go green, yellow, red all at the same time so we're much better now.

CARINA McCORMICK: Got it. My name again is Carina McCormick,
C-a-r-i-n-a--

WAYNE: Can you speak up just a little bit.

CARINA McCORMICK: --C-a-r-i-n-a M-c-C-o-r-m-i-c-k and my salutation is doctor. Well, happy Nebraska Statehood Day, everyone. And I think it's a perfect day to wish each other happy "equality before the law." I think today is a really good day that we finally put this into practice. So this issue is a, a bigger one for me than usual because I'm more out now about being bisexual. And I'm actually-- actually all of the out bisexual-elected officials in the state of Nebraska are sitting in this room. There's two of us, me and, you know, the other and then a third of all the out elected official-- officials et al. are sitting in this room. It's, it's a big deal and we should be able to be proud of that. Now my elected position doesn't pay anything, so I still need a real job. So I still need to be able to balance that and having a job and not being discriminated against. I was happy that Union Pacific was here. My grandpa and his brother, both in the early 20th century, worked for Union Pacific in Omaha, and it kind of makes me think, like, I have this really long family history in Nebraska and I want to be able to stay here. And I especially I want to be able to work with talented people, talented friends, and colleagues who know that they can be themselves. The reason I came up after the last testifier from the Episcopal Church is it reminded me that when I was in college, I actually switched from the Catholic Church to the Episcopal Church because of the-- their view on, like, homosexuality. And I came up because it, it is-- I want to emphasize, like, how it is something that's very important to people that they will switch. And if that means switching churches to the Episcopal Church like I did or

switching states to another state where they'll be protected, they'll do that. And we should really make this state one where people can be protected. I'm applying for remote jobs, and a lot of those companies in other places really value diversity, including sexual orientation and gender identity. And Nebraska, even if they don't always do it in their policies, I think people should deserve to be, to be themselves. So being bisexual, I'm a woman and I'm married to a man, so I would have had that chance to not have people know that I'm bisexual, but it's very important to me that I don't have to hide who I am. And for people who are homosexual or in a same-sex relationship, they don't have that choice to so easily hide and they, they shouldn't have to do that. Everyone in the state should get to be themselves all the time.

WAYNE: Any questions from the committee? Senator Geist.

GEIST: Thank you. Thank you for testifying and, and I appreciate your courage and what you have to say. But-- and I also have a question. So you say that you went from the Catholic faith to Episcopal because they supported your, your views. Is that correct?

CARINA McCORMICK: So to clarify, at the time, I still sort of considered myself straight and just thought girls were pretty.

GEIST: Well, and-- yeah, nevertheless, I-- I'm just curious if you think then that it's OK for some religious organizations just to have an opposing view and maybe there's room for both?

CARINA McCORMICK: I, I don't know what I can say for Senator Hunt's willingness to work for exceptions for, like, if a religious organization is the employer. But I, I-- it is my understanding that certain religious organizations as the employer, like, do follow slightly different laws because I think they can discriminate-- or not discriminate, they can choose to require people to be of the same religion. So I think, I think that would be, like, more of a niche thing. I'm talking more like, like secular employers.

GEIST: So your, your opinion would be that this is a-- more of a organizational business thing than a necessary litmus test for a religious faith? Or maybe I should let you speak for yourself.

CARINA McCORMICK: So I'm, I'm here supporting this bill, but I was sort of-- I brought it up as an analogy.

GEIST: OK.

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CARINA McCORMICK: Like, I left the religion because it-- because they were discriminating against homosexuality. And I know that senators are concerned about people, young people leaving the state so it was meant as an analogy.

GEIST: Yeah, I got you and I don't mean to put you on the spot. I, I really don't. I thought that you were delineating between one, one faith or one church thought and another--

CARINA McCORMICK: OK.

GEIST: --so that's why I asked. So I have no intention to put you on the spot.

CARINA McCORMICK: I put most of my energy towards my-- planning my other testimony so I-- that I wasn't as clear as I could have been, so. Thank you.

GEIST: OK. Thank you.

WAYNE: Any more questions from the committee? Seeing none, thank you for being here.

CARINA McCORMICK: Thank you.

WAYNE: Next proponent.

ABBI SWATSWORTH: Thank you, Chairman Wayne and senators of the Judiciary Committee. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h. I'm the executive director of OutNebraska, a statewide nonpartisan, nonprofit working to celebrate and empower 67,000 LGBTQ Nebraskans. OutNebraska is in full support of LB169. We often receive inquiries from LGBTQ people exploring a move to our state. The most common question we receive is about community climate. Are there nondiscrimination policies in place? Will my family be safe? We must tell the truth, LGBTQ people are not protected from employment discrimination in state statute. While LGBTQ employees are protected under the Bostock v. Clayton County Supreme Court decision, state statute protecting LGBTQ employees is still important for a number of reasons, which we have already heard here today and will continue to hear from testifiers behind me. So I'd like to go to the examples and information I put behind my testimony. Since 2020, Nebraska businesses and nonprofit organizations have banded together to form Nebraska Competes. Nebraska Competes is a nonpartisan coalition of businesses that support local, state, and federal nondiscrimination protections

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for sexual orientation and gender identity. Today, the coalition is 91 businesses, including 78 small businesses, industry leaders such as Union Pacific and Hudl, and the chambers of commerce of Nebraska's two largest cities. Nebraska Competes members come from communities across the state, from the Panhandle to the Missouri River, and all agree that it is time to make Nebraska a place where all can work and thrive free of discrimination. And there is a listing of our businesses and the communities that they are in. I'd also like to draw your attention that OutNebraska collected physical and virtual postcards throughout 2022 in support of the Equality Act, which was proposed federal legislation that would grant nondiscrimination protections. Nebraskans across the state signed these postcards, sending messages to Congress and asking them to support these vital nondiscrimination protections. In total, we collected 780 postcards from 47 different communities. Again, from the Panhandle to the Missouri River. Nebraskans are ready for a change and deeply desire a state where we are all allowed to thrive. For these reasons and more, we ask you respectfully please advance LB169 and we encourage you to consider it a committee priority. I'm willing to answer any questions.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

ABBI SWATSWORTH: Thank you.

WAYNE: Next proponent.

KEELLIA GUEVARA: Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Keellia Guevara, K-e-e-l-l-i-a G-u-e-v-a-r-a, and I am here representing Heartland Family Service. I am our chief diversity officer. Heartland Family Service-- it was funny listening to UP, we serve as many people as UP employees throughout the year, often the most vulnerable throughout our communities. We offer services around outpatient, residential treatment for substance use recovery, community-based services, housing support, and we operate two schools for children living with mental illness, supporting them and their families. As a multiservice agency, we often have clients enrolled in our care for over a year, and those clients serve or represent a broad range of demographics. They are refugees, they are children and they are families, they are senior citizens. Our clients are people of color, people who use mobility devices. Our clients are transgender and we do not turn anyone away. We serve everyone that comes to us seeking help. I have on one of our, like, company T-shirts and on the back it says: Loved

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As You Are, which is really part of our trauma-informed care service model and how we strive to meet everyone that we serve and also who we employ. And as we-- as an employer, we provide equal consideration for employment to all people without regard for race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity, gender expression, genetic information, disability, veterans or military status or marital status. So we support LB169 as it allows people as you heard to work without the threat of harm or discrimination based on who they are or who they love. Discrimination based on sex, sexual orientation or gender identity is illegal at the federal level and this change would bring Nebraska into alignment with that. And for those reasons and more we support LB169.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

KEELLIA GUEVARA: Thanks. Thanks for your time.

WAYNE: Next proponent. Welcome.

SUSAN ANN KOENIG: Senator Wayne, members of the committee, my name is Susan Ann Koenig, K-o-e-n-i-g, Susan, S-u-s-a-n. I'm an attorney and one of the founders of the Koenig Dunne Law Firm in Omaha, Nebraska. I am a trustee of the Business Ethics Alliance. I've been an active member of the Nebraska State Bar Association for over 40 years, an employer for most of those years, and have a background in employment discrimination litigation, including advising folks from academia and the trades to Harvard Law graduates. I speak in support of LB169 on behalf of my firm, and I have good news for you. The United States Supreme Court has already declared and in four words they said: the answer is clear. I'm quoting from the, from the Bostock decision. This type of discrimination is illegal. It is unlawful under Title VII. This was already decided for you. Now you have the responsibility, the duty, the opportunity to make this a, a part of Nebraska law so that there is no confusion, so that we don't have people bringing unnecessary litigation. We don't have people fighting against what the United States Supreme Court has already said are their employment rights. And that is what LB169 seeks to do. It's not about changing our fundamental intention, which is to have the laws of Nebraska be consistent with Title VII. If you read the language of our Fair Employment Practice Act, you will see that it is right in line with what that federal statute said. That has been the law for over 50 years. You get to enforce what we have already said is law, this law, LB169, is not trying to change our public policy. Three points out of

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the Fair Employment Practice Act that you can find in 48-1101. It is the policy of the state to foster the employment of all employable persons in the state on the basis of merit. Deny equal opportunity is contrary to the principles of freedom and is a burden of the objectives of the public policy of this state. It is the public policy that all people in Nebraska shall have the right and opportunity to enjoy the benefits of working within this state. That is the law of Nebraska. And now you, the Judiciary Committee, gets to decide whether or not you're going to oppose LP169 and say, oh, yes, all of those are public policy except for these people who are the most vulnerable to being terminated because, like Mr. Bostock, they joined a gay softball team. That is what this bill seeks to do. So I invite you--

WAYNE: Thank you for your testimony. I appreciate it.

SUSAN ANN KOENIG: --thank you--

WAYNE: Any questions? Senator DeBoer.

SUSAN ANN KOENIG: --to do the right thing.

DeBOER: Yep, so thank you for being here. Just waiting for the attorney to move this stuff to, to ask my questions to come up. So are there adequate protections in place for a church, a religious organization who hires employees, are there adequate protections so that they can--

SUSAN ANN KOENIG: Yes, Title VII already provides for that exception and protection. So there-- that, that-- this bill does not seek to change that.

DeBOER: So if I were the church of the great dolphin and we believe that people with red hair could not be hired or people with-- who were LGBTQ or whatever, I would still have-- the red hair was a herring, but LGBTQ people could not be hired by our church, we would still be protected in that-- in our church organization?

SUSAN ANN KOENIG: Those would be the matters that need to be litigated but there is, there is already the statutory protection for religious employers.

DeBOER: OK.

SUSAN ANN KOENIG: So there-- just there are-- just as there are protections for First Amendment rights. So there are, there are

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exceptions to the provisions of, of the fair employment law that, that provide those exceptions. Yes.

DeBOER: So those, those exceptions are already in place and LB169 isn't going to change that.

SUSAN ANN KOENIG: That's correct.

DeBOER: OK. Thank you.

WAYNE: Senator Geist.

GEIST: Yes, could you just help me understand? I'm not an attorney, so what, what constitutes a religious employer?

SUSAN ANN KOENIG: I am not qualified to answer that. Legal counsel, maybe you can help us out with that.

WAYNE: We don't--

GEIST: We'll talk later.

SUSAN ANN KOENIG: Yeah. Thank you.

GEIST: OK.

SUSAN ANN KOENIG: I wish I could be more helpful.

GEIST: OK. Thank you.

SUSAN ANN KOENIG: Yeah. Yeah. It's, it's more-- there are a number of organizations, employers, so there's, there's a, a series--

GEIST: OK. All right.

SUSAN ANN KOENIG: --of, of qualifying entities.

GEIST: I'll, I'll dig-- I'll find it. Thank you.

SUSAN ANN KOENIG: Yeah, thank you. Good question.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

SUSAN ANN KOENIG: Thank you so much.

WAYNE: Any other proponents? Proponents? Welcome.

LACIE BOLTE: Good afternoon, Chair Wayne, members of the committee. My name is Lacie Bolte and I represent Nebraska AIDS Project, a nonprofit organization that provides HIV supportive services across the state of Nebraska. And I am here today to request your support of LB169. Nebraska AIDS Project leads the community to overcome HIV and its stigma through supportive services, advocacy, and education. Our organization serves the entire state of Nebraska and works with many members of the lesbian, gay, bisexual, transgender, and queer LGBTQ+ communities. HIV continues to be a major public health crisis both in the United States and around the world. While major scientific advances have made it easier than ever to prevent and treat HIV, there remains no vaccine or cure and tens of thousands of people continue to contract HIV each year in the United States. Insufficient funding for public health programs, ideological opposition to commonsense prevention policies and societal barriers like stigma and discrimination have made it especially difficult for us to turn the tide against the epidemic. From a public health perspective, LGBTQ+ individuals are greater burdened by psychosocial health disparities including depression and substance use across their lifetime compared to their heterosexual counterparts. These disparities are even more pronounced when accounting for intersecting marginalized status, such as race and ethnicity and their HIV status. Anti-LGBTQ+ bias further enables the spread of HIV by discouraging many in our community from getting tested or treated for HIV for fear of harassment. Nebraska already recognizes that an employer cannot discriminate against someone because of their HIV status or disability. Establishing protections for all Nebraskans is a public health concern and responsibility. When Nebraskans are able to be their true, authentic selves, they're more likely to achieve stable employment and have access to healthcare. All of these benefits, benefits the entire state of Nebraska for supporting LB169. Thank you for your consideration. I'd take any questions.

WAYNE: Any questions from the committee? [INAUDIBLE] Oh, sorry. Sorry, transcribers. Next proponent.

SHIRLEY NIEMEYER: Honorable, Senators, I am in support of LB169. My name is Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r. Research and scientific studies are indicating sexual orientation and gender identity are connected to genetics. Persons born with a genetic different sexual orientation should be protected from discrimination. A new study supports multiple gene candidates identified as five new genetic fixed positions on the chromosomes correlating with same-sex activities, two in men and women, and two only in men and one only in

women. The latest survey to date focuses on genes associated with same-sex behavior and was conducted with DNA of nearly half a million people from the U.S. and U.K. and they identified between 8 and 25 percent of same-sex behavior from this genetic investigation. And that was printed in Science magazine. According to the American Journal of Preventative Medicine: National Surveys on Drug Use and Health, lesbian, gay, and bisexual adults were three to six times more likely than heterosexual adults to report suicide thoughts, plans, and attempts. National Institute of (Mental) Health. Lifetime suicide attempts, on average, are four times higher in gay and bisexual men and twice as high in lesbian and bisexual women compared with heterosexual. Among adolescents, those who are LGB report having made a lifetime suicide attempt at three times the rate of heterosexual youths according to the Psychiatric Times. A Nebraska woman was bound, gagged, and mutilated, and three attackers splashed the victim's home with gasoline and tried to set it on fire. Derogatory terms associated with her sexual orientation were painted inside the home. In 1993, Nebraska, a biological female individual who lived his life as a male was murdered by two former friends after they discovered his biological sex. And so in conclusion, I would say, you know, they have a lot of obstacles with society and I think we have to protect their opportunities and protect them as much as possible from, from not being able to obtain what those of us that are heterosexual are possible to obtain. So I really support this and it's much needed. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Proponent. Welcome.

JANE SEU: Good afternoon, Chair, members of the committee. My name is Jane Seu, J-a-n-e S-e-u, and I'm testifying on behalf of the ACLU of Nebraska. We're testifying in support of LB169 and we thank Senator Hunt for introducing this legislation. All people, including those who are gay or transgender, deserve to be treated fairly and equally by the laws of their state and should have the opportunity to earn a living. This bill extends informed protections for LGBTQ people in the workplace. Unfortunately, LGBTQ employees can be denied well-earned promotions, lose their jobs, and even experience violence at the workplace just for being who they are. Twenty-one states and the District of Columbia have state laws that protect people from discrimination on the basis of sexual orientation and gender identity in the areas of employment, housing, and public accommodations. Extending discrimination prohibitions to include protections on the basis of sexual orientation and gender identity allows LGBTQ people to

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participate in their communities and live full lives as their authentic selves. As you heard, LB169 is common sense. There is the, the U.S. Supreme Court ruling of Bostock in 2020 that extended the protections of Title VII to include sexual orientation and gender identity. Unfortunately, we know that this discrimination continues. The ACLU receives regular intakes of folks experiencing discrimination at work and/or even having trouble finding employment as a result. Passing LB169 would ensure that Nebraska laws prohibiting discrimination in the workplace are in line with federal law. It would reduce confusion. It would harmonize our laws with the federal standards, provide clarity to all stakeholders, our employers, and those seeking work in our state. And it will set a value statement to your neighbors and knowing that all the-- all people are welcome to work here, attract new business, new talent, and make us more competitive in the global marketplace. With that, we urge the committee to advance this bill and I'll answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent. Welcome.

JAYDEN SPEED: Thank you, Chairman Wayne and members of the Judiciary Committee. My name is Jayden Speed, J-a-y-d-e-n S-p-e-e-d. I am 18 years old and I'm about to graduate high school, and I've been counting down the days. There is currently 36 days left in my high school. And the calculation myself and many of my peers are making right now is whether or not Nebraska is a state that we want to stay in after graduation. As a queer young person, I'm struggling myself to make that decision. I've grown up in rural Nebraska all my life. I've spent 12 years in the same school district. I love this state. I love our communities and I love our Legislature. UNL, Wesleyan, and Creighton have all offered me admissions with substantial financial packages, but no amount of money makes up for the bigotry that currently exists in the state. Myself and many LGBTQIA+ youth feel like we're under attack in Nebraska, especially with the Legislature's push towards anti-trans legislation. LB169 is the right step in protecting LGBTQIA+ Nebraskans from employ [RECORDER MALFUNCTION] and making youth feel welcome in this state. Our motto as a state is equality before the law. Let's make that a reality for all people, regardless of their sexual orientation or gender identity. Thank you.

WAYNE: Any questions from the committee? Senator Blood.

BLOOD: Thank you, Chair Wayne. Weren't you just recently-- didn't you receive the U.S. Youth Senate Program Award?

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JAYDEN SPEED: Yes, Senator Blood. I will be representing Nebraska on Saturday in Washington, D.C.

BLOOD: And I got a proclamation in my office for you.

JAYDEN SPEED: Yes.

BLOOD: Thank you. I was just making sure I had the right one.

JAYDEN SPEED: Thank you.

WAYNE: Thank you. Questions from the committee? Seeing none, thank you for being here. Next proponent.

ABBY BURKE: Hi. My name is Abby Burke, A--b-b-y B-u-r-k-e. I am here speaking as a proponent for LB169. I am here as a mom of a daughter who is in college; went through our public school system, so we've already invested a lot of money in her and my son. She's going to the University of Nebraska-Lincoln just down the street. She'd be here right now, but she's in her math methods teaching course because she wants to be a secondary math teacher. Sadly, as a mom, she will likely leave the state of Nebraska because she can't imagine, as a heterosexual woman living in the state of Nebraska, knowing that we are intentionally opposing lives such as this. She wants to know that she can live in a safe state where she can be an ally and feel even safe as an ally, because that can be scary, too. So I really think-- to me, I wasn't going to speak today, but LB169 is a no-brainer because we want all people to feel safe. We want all people to feel safe and know that they-- that their allies can help them and advocate for them. And I want my daughter to stay in Nebraska with me. And you all want her to be your high school math teacher because she will be phenomenal. I will just put in a plug. We have a, a teacher shortage in the state of Nebraska. I believe there were 1,200 unfilled positions in the state of Nebraska. We'd have to check with NDE, but at one point there was. And so, we will have folks like her leaving the state. And likely, I'll probably follow her, because I know she'll have grandkids-- I'll have grandkids someday. And then, my husband will have to leave, too. So there's definitely a chain effect, so please vote in--

WAYNE: Any que--

ABBY BURKE: --in favor of LB169. It's a no-brainer. Thank you.

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WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. And I want to remind people, if you want to record you're present in a position on a bill, there's a gold sheet up here next to the column. Welcome.

MARYLEE MOULTON: Hi. Good afternoon, Senator Wayne and members of the committee. My name is Marylee Moulton, M-a-r-y-l-e-e M-o-u-l-t-o-n, with the League of Women Voters of Nebraska. The League of Women Voters supports equal rights for all, regardless of race, color, gender, religion, national origin, age, sexual, sexual orientation, or disability. We believe that it is in the best interests of our state to codify these protections. According to an analysis of survey data by the Williams Institute at UCLA School of Law, 46 percent of LGBTQ respondents, in 2021, reported having received unfair treatment at work at some time in their lives. According to the Trevor Project, 37 percent of young Nebraskan-- young Nebraska LGG-- GBT-- LGBTQ Nebraskans have been threatened or harmed, due to their orientation or gender identity. It is important to the vitality of our state that we retain our young people, as they become the next wave of Nebraska workers. When they're choosing where to pursue their first jobs, buy their first homes, it's essential they feel welcome in their home state. It's imperative that workers considering relocating to Nebraska have employment protections that make them realize they will not be discriminated against. The League of Women Voters of Nebraska values equality of all persons and we want to see our state thrive. Codifying legal employment protections for all makes us a better community and a more attractive place to live. We urge you to advance LB169. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent.

CRAIG BERNBECK: Senator, Senator Wayne, my name is Craig Bernbeck, C-r-a-i-g B-e-r-n-b-e-c-k. When I'm wearing heels, I go by Jessica, J-e-s-s-i-c-a. I'm in favor of this bill, even though society is beginning to understand the transgender people that their decision to go transgender are not necessarily their fault, it's something within them and society is beginning to realize that. But it's not happening fast enough. All we got to do is look back one year ago, when our former state Attorney General, Doug Peterson, legally attacked the transgender people in this state with our money. I'd never been as embarrassed and ashamed as when I found that out. Luckily, the courts held up and they threw it out. But we need to pass this to protect people from the Doug Petersons that still live here. Thank you.

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WAYNE: Great. Any questions from the committee? Seeing none, thank you for being here.

CRAIG BERNBECK: You bet.

WAYNE: Next proponent. Welcome.

JAMES MACKIEWICZ: Thank you very much. Chairman Wayne, committee members, thank you for having me. James Mackiewicz, J-a-m-e-s M-a-c-k-i-e-w-i-c-z. I came to speak on the economic impact of not passing this bill. And as Misters Moore, Dodge and Fredrickson laid that out very well, I'm just going to add two points to that. First, I'm a believer in free markets and I think if a company or organization puts out a good product, good service, people will come to that company. It'll be successful. If you don't do that, things will fall apart. I also believe that most companies should have the choice to do what they want, based on what I just said at the free markets. In the case of LB169, it's not a matter of the success or failure of an individual business or organization, it's looking at the success of the state. And as much as the three people sitting behind me, the large organizations they're representing plus the side organizations, chances are they have voluntarily put these measures in place. 100 percent of the businesses and organizations in Nebraska could voluntarily do what this bill is proposing, but the optics to everybody outside of the state will then be magnified, because as much as we might choose to do it, it looks like we are not in support of it. And for the good of Nebraska, I would ask you to support and pass LB169.

WAYNE: Thank you. Any other-- any questions from the committee? Seeing none, thank you for being here.

JAMES MACKIEWICZ: Thank you.

WAYNE: Welcome.

CINDY MAXWELL-OSTDIEK: Thank you. Good afternoon, Senator Wayne and members of the Judiciary Committee. My name is Cindy Maxwell-Ostdiek, that's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I thank you for holding this hearing open today for everyone who comes to testify. It's unfortunate that's not always been the case in other committee hearings this session. And I'm a mother, small business owner, volunteer and I'm a concerned community member. I'm also co-founder of the Nebraska Legislative Study Group and my professional background's

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in human resources and executive recruiting. I have worked over the years to attract professionals to many of Nebraska's excellent employers and there were times we failed to bring candidates to our state or I lost them to other employers in other states, due to our policies that we were not welcoming. And I'm testifying today in support of LB169. It is good for business and it's high time to pass these protections. Nebraskans have been asking for this important legislation for years. And as I was remembering, recently, about a time when I came to the Capitol, I looked at my Instagram feed and I have a memory from March 4, 2019, when I attended my youngest's fourth grade Unicameral field trip. We were in the balcony to hear Senator Patty Pansing Brooks, who was speaking about LB627. It was so disappointing that bill did not pass four years ago. I thank Senator Hunt for bringing LB169. Please vote yes. Advance this and help make our state attractive for employers, employees and all their families.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

CINDY MAXWELL-OSTDIEK: Thank you.

WAYNE: Next proponent.

JOSHUA GAWRICK: It's the first time I've ever done this. Kind of exciting. Also served my first jury duty not too long ago. My name is Joshua Gawrick, J-o-s-h-u-a, last name G-a-w-r-i-c-k. Me and my husband live here. We've been together now for five years. I'm an electrical engineer and he is a general dentist at Williamsburg, that's 27th and South. We don't feel, especially now, the country, kind of, seemingly, going backwards in social issues, feel incredibly welcome in the state anymore. I was born and raised here. Went to Lincoln East, I'm an Eagle Scout, former Catholic, you know. And he's from Minnesota, went to Creighton Dental. And we love Nebraska. We really do. I have 13 nieces and nephews here, who of which I am the best uncle in the world to. I take them on birthday dates. Every time I, you know, show up to one of their houses, you know, their eyes light up. We don't feel incredibly welcome in this state anymore. And I feel like it's up to you guys, elected leaders, to do your job, as far as leading a community. You saw what Trump's hate kind of did to the country, so it'd be good for all Nebraskans to see true leadership and to, you know, help the LGBTQ community feel welcome again. That's all I have to say.

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WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. It's not as bad as jury duty.

JOSHUA GAWRICK: Jury duty's rough.

WAYNE: Next proponent. Next proponent. Next proponent. Seeing none, we'll move to opponents. First opponent. Welcome back.

MARION MINER: Thank you. All right. Good afternoon again, Chairman Wayne, members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm associate director of Pro-life and Family Policy for the Nebraska Catholic Conference. The Catholic faith recognizes the supreme dignity of every person, as made in the image and likeness of God. The only appropriate response to this reality is charity. For this reason, the Catholic faith also recognizes that no one, including those who are experiencing same sex attraction or conflict about gender identity, should be subject to unjust discrimination. Every person, in other words, should be treated with respect and dignity. However, LB169 goes beyond protecting against unjust discrimination. It uses government coercion and punishment to force individuals, employers, small business owners, nonprofit entities and religious organizations, among others, to affirm conduct and messages that conflict with their sincerely held beliefs about marriage, human sexuality and concerns for privacy. This has been the track record of sexual orientation, gender identity laws or SOGI laws, everywhere, from cake bakers to wedding photographers, flower shops, art studios, website designers, bookstores and domestic violence shelters, foster care, adoption agencies, to name a few. Former Supreme Court Justice Anthony Kennedy said, in the Obergefell decision, that a traditional view on marriage long has been held and continues to be held in good faith by reasonable and sincere people, here and throughout the world. LB169 does not treat those with such views on marriage and sexuality as reasonable and sincere people, but instead as bad actors in need of corrective government coercion and punishment. And I would note that LB169 does not deal simply with employment. It does in deal-- deal also with local public accommodations laws and that comes with its own set of unique problems in application of this law. But even with regard to employment titles, this is not simply mirroring what is required under federal law. Title VII is only applicable if you have 15 or more employees. This would affect everyone. The United States, at the federal level, has a federal Religious Freedom Restoration Act, which provides significant religious protections to people against generally applicable laws. Nebraska does not have one, so there would be fewer religious

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protections in Nebraska than under federal law and then, under states which have passed the state RFRA. And I would add, too, that under 48-1103, which is the religious employer exemption, that is extremely narrow and it's essentially coextensive with what is traditionally held to be a ministerial exemption. So somebody who's in the position of teaching the faith, guiding the faithful and so on, not to another type of employee who's serving a different role. And it provides no protection at all to-- I see my time is up--.

WAYNE: Thank--

MARION MINER: --but would provide no protection at all to--

WAYNE: Thank you for your testimony.

MARION MINER: --thank you. I'll, I'll stop there.

WAYNE: Any questions from the-- Senator DeBoer.

DeBOER: Finish your sentence. [INAUDIBLE]--

MARION MINER: Oh, sure. Thank you.

DeBOER: --zero protection.

MARION MINER: No. What it would provide no protection at all for is for, say, like a-- and this is one of the cases that I cite in the testimony is, for example, a Christian bookstore or some other faith-based business. It's not formally affiliated with the church and it wants to run its business in accord with its own values and its own mission, without being accused of creating a hostile work environment, for example, which often is the, the claim that's made, due to speech that's deemed offensive or, or hostile. Thank you.

DeBOER: I wanted to give you a chance to--

MARION MINER: Thank you.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair Wayne. I'm just kind of confused. So it provides a no protection of private business owners, who, in good conscience, want their business, which is faith-based but not affiliated formally with any church, to run their business in

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accordance with the mission. What mission would you have except to hire a good employee?

MARION MINER: Well, if you're-- so one of the cases that I cite here and it's footnote 7, Queen of Angels Catholic Bookstore v. City of Jacksonville. And this is a little-- less than a month old. It might just be a few days old, about a month old. So here, you had-- my understanding of this case was you had a bookstore who-- their, their Catholic bookstore partner, their business model, is not just to make a profit, but also, sort of, to evangelize through what they sell, through the atmosphere that they articulate, through the message that they proclaim, both on the website, in person when customers come and shop at their store, so on and so on. So they see that as a mission and they want to deliver some messages and not others in carrying out that mission as a business. So in this case, you had a sexual orientation, gender identity nondiscrimination law that was very boilerplate language, that was applied to them through the interpretation of the city of Jacksonville's equivalent of an EEOC, saying that this means that you have to speak certain messages to people and not speak other messages to people, in-person or on your website. And that's why they're suing. So that's one example of how that could apply to somebody who's not formally affiliated with a church, but wants to live out and practice their business in accord with who they are.

BLOOD: So that's just worse. So are you saying that, that an individual's purpose is found in their biology? I mean, that's what I'm hearing you saying.

MARION MINER: No, that's not what I'm saying.

BLOOD: OK. So how does it affect their business if somebody identifies differently than they do? Because that's, that's your private business.

MARION MINER: So, for example, with, with regard to the, the-- the context here is not employment, it's public accommodation. And this, this bill would cover both-- does cover both. So with regard to a public accommodation, right, who is a public accommodation? Traditionally, a long time ago, that meant a very small subset of people who, who provide public services that are simply irreplaceable. Now, under Nebraska law and more broadly, it means basically anybody who's open for business to the public at all who provides services to the public, meaning the Catholic bookstore, in this case. They are a

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public accommodation. So if they're-- they, they may not, then, discriminate on the basis of sexual orientation or gender identity. That is the language that was at issue, which is the language at issue here. That was interpreted by Jackson-- the city of Jacksonville, to include, then, that they had to regulate their own speech or they would be deemed to be in violation of the law. Because the city likes some types of speech that the-- and doesn't like other types of speech, including the very specifically Catholic and sometimes controversial speech of the business owner. If that is deemed to be discriminatory on the basis of sexual orientation or gender identity, that gets them in trouble. That's why they're suing.

BLOOD: I'm going to stop asking questions because I-- the more I hear, the more I, I don't [INAUDIBLE] so.

MARION MINER: That's a real-life case.

BLOOD: I appreciate that.

WAYNE: Senator DeBoer.

DeBOER: Hi. Sorry. Let me ask questions now. I wasn't prepared before. So does this bill, LB169, do the things that you're saying?

MARION MINER: Yes.

DeBOER: It's not just in Bostock? This bill does that?

MARION MINER: So the bill-- so what I'm saying is that-- maybe I'm not super clear about this-- haven't been super clear. This bill contemplates not just employment, but also public accommodation. That's like Section 1 of the bill, I believe, with regard to local cities and towns, it, it is.

DeBOER: It allows local cities and towns. So how does this-- how does it work in Omaha? Because we've already got an anti-discrimination law in Omaha.

MARION MINER: That-- that's a good question and I don't know what the history is in Omaha. I, I just don't.

DeBOER: So, I mean, we've already got it in place in Omaha. I don't-- do we have it in place in Lincoln?

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MARION MINER: Not that I know-- I don't think Lincoln has the authority to do that. I think-- if, if I-- you know what? I'm not going to speculate on that. I'm not sure.

DeBOER: OK.

MARION MINER: I don't know the answer to that.

DeBOER: But-- there's-- I mean, think-- it's been in place in Omaha for a while.

MARION MINER: Sure.

DeBOER: The sky hasn't fallen.

MARION MINER: And if, if the sky hasn't fallen in Omaha, that's good. However, it has fallen in other places. And in fact, it's had crushing consequences on individual litigants who have been in court now, continuously, for 10 or more years in some cases. And those are from all over the country. I'm--I've cited like eight cases here, but there are a lot more.

DeBOER: Well, maybe they should look at what Omaha has done because Omaha seems to have figured it out. All right. That's all.

WAYNE: Senator Geist.

GEIST: So is that-- I'll just be blunt. Is that the biggest pushback of this is the public accommodation or is it the employment? Or is it both?

MARION MINER: So, I mean, it's, it's both. You know, it's, it's not as simple, it's not as simple as Bostock says this. And so now, we're going to be-- we're going to click into place with Bostock, because Title VII is not exactly the same as what's being proposed by this bill. Title VII applies only to businesses that have 15-plus employees. This would apply to everyone, regardless of size. Nebraska, again, has no Religious Freedom Restoration Act in place. That means that under-- so under-- if a federal law is applied to somebody in such a way that it violates their religious freedom of exercise, then there's a federal remedy for that under federal law. That's the, the Religious Freedom Restoration Act, which was passed in the 90s by Congress. However, if a state law is applied coercively to restrict somebody's free exercise, we have no state law remedy for that. It's-- if it's a generally applicable and neutrally applied law, which is

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always the contention is that what-- is that's what these are. You've got no remedy, no religious freedom protection under Nebraska law. So that's the other big difference, the other big contrast between what exists at the federal level and what would be created in Nebraska under this law. And then, the public accommodation one is just-- I mean, that's just a field-- a lot of these cases are public accommodation cases.

GEIST: Right. No, I understand that part. I just was--

MARION MINER: Yeah.

GEIST: --trying to whittle out what your, your concern was, so thank you.

MARION MINER: Thank you.

WAYNE: Can you point to what part of the bill-- sorry, were you done?

GEIST: Yeah.

WAYNE: Can you point to what part of the amendment or the bill deals with public accommodation?

MARION MINER: So that's Section 1, I believe.

GEIST: Line 9.

WAYNE: Of the amendment or the bill?

MARION MINER: Under the provision of law, all cities and villages shall have the power by ordinance to--

WAYNE: Hold on. Is it, is it-- are we looking at the bill or the amendment?

MARION MINER: The bill.

WAYNE: The bill.

MARION MINER: The amendment-- with the amendment-- I don't think the amendment changes that.

WAYNE: OK.

MARION MINER: If, if it does, I'm not aware of it.

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WAYNE: So Section 1 says all cities shall have the power.

MARION MINER: Um-hum.

WAYNE: So how is it changing, other than giving the cities the option of whether they have the power or not, which they currently do, right now, anyway, because Omaha did it.

MARION MINER: Does-- is that-- so here's, here's what I'm not sure about. So I'm, I'm happy to take instruction on this point. Is, is Omaha able to do that because of its, because of its special status, because of their population or is that available to everybody?

WAYNE: The, the Dillon Rule applies everywhere, but Lincoln can do it tomorrow and they're not Omaha. Fairbury can do it tomorrow if they wanted to pass an ordinance on that.

MARION MINER: On the-- OK. Yeah, I guess I'm, I guess I'm just not sure about that.

WAYNE: OK. Any other questions from the committee? Thank you for being here.

MARION MINER: Thank you very much.

WAYNE: Next opponent. Welcome.

GREG BAYLOR: Thank you. Mr. Chairman and members of the committee, my name is Greg Baylor, G-r-e-g B-a-y-l-o-r, and I am senior counsel with Alliance Defending Freedom. I have four concerns about the bill. First, the impact of the ban on gender identity discrimination on all employers. It's important to understand that bans on gender identity discrimination have been interpreted to require employer-- employers to give access to private spaces like bathrooms, locker rooms and the, and the like, based on gender identity rather than biological sex. And this, frankly, creates a privacy and safety problem, particularly for women. Second, these laws have been interpreted to require people to speak in violation of their conscience when they're referring to others. I'm speaking about pronouns here. Third, they've been interpreted to require employers to include, in their employee health plans, puberty blockers for children, cross-sex hormones for children, and so-called sex reassignment surgery. Second, the impact on religious employers in particular: it's well established that these sorts of laws, SOJIs, impair religious liberty. That's why virtually every state that has adopted one of these has included a robust

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exemption, something that this bill fails to do. There is, as was discussed, an existing exemption in Nebraska law, but it is inadequate and it's even narrower than the Title VII religious exemption. Third concern: the potential imposition of a SOJI on places of public accommodations. Section 1 of the bill confers authority on villages and cities to enact laws, ordinances, that forbid discrimination on the basis of sexual orientation and gender identity. One of the concerns that flows from that-- what about schools? What about educational institutions? There's no clear answer in Nebraska law about whether schools are places of public accommodation, but some states have said that they are. Religious schools should not be compelled to change their admission standards or their student conduct codes or even their extracurricular-- curricular activities. Finally, the potential imposition of SOJI on housing: under the Fair Housing Act, dorms are dwellings. And the problem is there are those, at least in the Biden administration, who say that a college that has single sex dormitories must allow people to live in the dorm, based on their gender identity rather than their biological sex, so men in women's dorms. I'm happy to answer questions, especially about the legal questions that were discussed with the previous witnesses.

WAYNE: Any other questions? Senator Geist.

GEIST: I do have one. You spoke about the religious exemptions that some other states have that are robust.

GREG BAYLOR: Yes.

GEIST: Does-- do those exemptions include-- I think I probably know the answer to this, but I'll let you answer it anyway. Do they include religious schools?

GREG BAYLOR: Yes.

GEIST: OK.

GREG BAYLOR: Yes, they do.

GEIST: Can you-- would you talk about-- I asked a testifier earlier, what-- how that is defined. What is a religious organization?

GREG BAYLOR: Right. Yeah.

GEIST: Can you give me some-- I'm, I'm sure it's different in every state or could be, potentially.

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GREG BAYLOR: It is, it is different in a, in a-- yeah. Sorry. Go ahead.

GEIST: No, you go, you go ahead.

GREG BAYLOR: Yeah. No, it, it, it is different in any state-- every state, but there are a lot of common themes. The bottom line is it's a multifactor test, like a lot of tests under the law, because it doesn't define it in most statutes. It just says religious employer, synonyms for that word, organization and the like. But the EEOC and courts in the Title VII context, when they're trying to identify who's exempt-- who's an exempt religious employer, they look at things like the bylaws, the articles of incorporation. They look at the daily activity of the organization. Does it have a religious purpose? Does it present itself to the outside world as a religious organization? There's one case that a court reached-- there's only one, in which someone said they were a religious employer under Title VII and the court said no. It was a manufacturing and engineering company. The owners were believers themselves and they hosted Bible studies and the like, but their product was not religious in any way, whatsoever. So they weren't. But almost everything that you can think of, like a social service ministry, an educational institution, obviously, houses of worship, they're all religious organizations and entitled to the exemption. So I don't think the entitlement to the exemption is really the problem. It's the scope of the exemption. My point is that it's too narrow to protect all these entities that I've been talking about, under LB169.

GEIST: So-- may I follow up, Chair?

WAYNE: Yeah, quick.

GEIST: So in light of that, is there an example of a place where this exists harmoniously, where it's balanced, where you can have freedom of thought on both sides?

GREG BAYLOR: There is not. I must confess, there was an effort underway, in the federal Congress, called Fairness for All. It was the Equality Act, which we believe is an unfortunate piece of legislation that should never pass and it just has some inadequate religious exemptions thrown in. So that was an effort in that direction, but it wasn't really a fair and equal balance between the two sides with their competing interests. Utah did pass a piece of legislation that added SOJI as protected classes and they added, again, inadequate

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religious exemptions. They also-- they, they declined to take on one of the most difficult subjects, which is the area of public accommodations, so the short answer to your question is no.

GEIST: OK. Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here.

GREG BAYLOR: Thank you, sir. Thank you.

WAYNE: Next opponent.

MARILYN ASHER: Hello. My name is Marilyn Asher, and I ran against Megan Hunt for District 8. I want to congratulate her for beating me fair and square. But I'm representing myself and the people in my district who voted for me. I'm concerned about the wording of LB169. Page 2 of the bill reads all cities, cities and villages in this state shall have the power by ordinance to define, regulate, suppress and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, familial status, disability or age. Senator Hunt wants to insert the phrases "sexual orientation and gender identity" between national origin and familial status. According to the law as it is now written, the word creed is included in the list of bases upon which discrimination must be prevented. According to Merriam-Webster dictionary, the word creed is defined as the basic beliefs or guiding principles of a person or group. It is obvious that the phrases sexual orientation and gender identity would be covered by the word creed, because creed represents an internal belief. On page 26, lines 8 and 9, the inserted definition reads, gender identity shall mean an individual's internal sense of the individual's own gender. Page 27, lines 9 and 10 state sexual orientation shall mean actual or perceived homosexuality, heterosexuality or bisexuality. Both definitions include a mindset, which is a personal creed for individuals. Sexual orientation and gender identity would fit the definition of creeds that are held by individuals who have sets of beliefs about themselves and carry those beliefs out in their lifestyles. The First Amendment of the Constitution of the United States allows each citizen the right to freely exercise the beliefs of his or her creed, without demanding that everyone else adhere to that creed. By adding the two phrases that Senator Hunt wants to add to the bill, she is specifying what type of creed needs to be observed, which is not constitutional. Adding those two classifications burden and violate the free speech of Nebraskans. If we do not use pronouns which please the named groups,

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Nebraskans may, subsequently, be prosecuted for violating the law. The practice of elevating two particular creeds could become the gateway for more extraneous creeds to be added to the law. Twenty-five times, the law would-- as written, uses the words race, color, religion, ancestry, sex, marital status, national origin, familial status, disability or age. Only one of those times is the word creed included, as it is on page 2. That one time is on page 25. My suggestion is to make the word creed appear in each of the 25 lists. Sexual orientation and gender identity would be encapsulated in that word and it will not be necessary to delineate any particular creed which pertains only to a certain segment of society. Let each individual live by his or her creed. Thank you for listening to me.

WAYNE: Senator Blood.

BLOOD: I'm sorry. Did you say my name?

WAYNE: Yes, Senator Blood.

BLOOD: I'm sorry. This room, the acoustics are horrible.

MARILYN ASHER: Yes.

BLOOD: I just want to clarify to make sure I heard you correctly.

MARILYN ASHER: Yes.

BLOOD: First of all, thanks for coming to testify.

MARILYN ASHER: OK.

BLOOD: I'm going to ask you another question.

MARILYN ASHER: OK.

BLOOD: So, I heard you say two different things and I'm thinking, maybe I heard you incorrectly. You're saying, basically, that if someone identifies as LGBT-- LGBTQ, that is a belief or a personal creed. Did I hear you correctly?

MARILYN ASHER: Well, according to the definition of gender identity and sexual orientation in the document itself, in the, the law, as it defines it, it's an internal sense or a perceived-- even if I perceive myself-- I'm a heterosexual. I perceive myself as a heterosexual.

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Somebody else would perceive themselves as a homosexual, so the creed encapsulates any of those beliefs.

BLOOD: But you-- I mean, based on that definition, definition you gave me, I mean, we could apply that to people with disabilities, Nebraskans of color.

MARILYN ASHER: No, because that's not in their heads. I mean, that's not in their minds of persons--

BLOOD: It's not in your mind when you identify either, I don't believe.

MARILYN ASHER: --pardon me?

BLOOD: I don't believe it's in your mind how you identify, it's in your biology.

_____ : Two men having sex is not--

MARILYN ASHER: Well, it's--

WAYNE: I, I, I--I'm going to have to ask you to leave if you--

MARILYN ASHER: --so--

WAYNE: --I didn't ask you to leave. I said I'll have to if you continue, so you're fine right now. Just--

MARILYN ASHER: I'm going according to the definition that's written in the bill and it says internal sense or perceived, which has to do with a person's-- and it has to do with any creed that you or I may hold. It does not have to pertain to religion. Often, creed is considered a religious word, but that is not how the dictionary defines it. And we have freedom to believe whatever we want. But-- and to-- actually, to live however we want. But I can't expect anybody else to live by my standards, you know, if they don't believe in my standards or believe-- or address me in a certain way, because I'm-- because I have a certain belief.

BLOOD: But then, in that sentence, you just told me why we need that bill.

MARILYN ASHER: Why?

BLOOD: In that sentence that you just gave me--

MARILYN ASHER: Yes.

BLOOD: --that explained to me why we need that bill, to-- because everybody has the right to believe what they want to believe.

MARILYN ASHER: That's right.

BLOOD: And so, if I, if I have a, a same sex spouse--

MARILYN ASHER: Yes.

BLOOD: --or whatever and I have that person's picture on my desk, I have the right to love who I want to love and the right to believe what I want to believe. And this law will protect me and my opinion, which is what you just said in your last sentence. So I think we agree on some things.

MARILYN ASHER: Well, the creed encapsulates that. The word creed encapsulates that.

BLOOD: I, I, I appreciate you sharing that. I'm not sure I agree--

MARILYN ASHER: OK.

BLOOD: --but I appreciate you sharing your opinion. Thank you.

MARILYN ASHER: OK.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

MARILYN ASHER: Thank you.

WAYNE: Next opponent. Welcome.

KAREN BOWLING: Thank you. Good afternoon, Chairman Wayne and members of the Judiciary Committee. I am Karen Bowling, K-a-r-e-n B-o-w-l-i-n-g. I serve as the executive director at Nebraska Family Alliance. NFA is a nonprofit policy research and education organization that represents a diverse, statewide network of thousands of individuals, families and faith leaders who oppose LB169. We believe every person should be treated with dignity and respect and not suffer unjust discrimination. Our opposition to LB169 is due to the problematic consequences of making sexual orientation and gender identity a protected class category. In a diverse and pluralistic society, it is not surprising that there are differing views of

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beliefs pertaining to issues of marriage and human sexuality. These views are held in good faith by sincere and reasonable people, as was noted in the U.S. Supreme Court's majority opinion on Obergefell. Freedom is essential part of American experience. Protecting freedom in a marketplace benefits the business community, our state economy and ultimately, the people of Nebraska. Sadly, the government has used laws, like LB169 ,to target small businesses and punish people like Jack Phillips and Blaine Anderson-- Adamson, for declining to create a custom art that expresses a message that conflicts with their beliefs. Previous testifier noted that SOGI language is in Colorado. That is very interesting, in regards to Jack Phillips. Even after he won his Supreme Court case, 7-2, the Masterpiece Cakeshop, the Colorado Commission on Civil Rights has sued him two more times. Currently, he is still in litigation. His lawsuits now are reaching eight years. As an advocacy group, also, Blaine Addison [SIC] was targeted. I want to go away from what I have written. One of several things were brought to light, regarding this is going to harm economic growth. So I have some statistics and I just Googled-- I had them from 2020, but I just Googled. In 2022, according to the best states for business and economic growth accord-- according to area development, the top tens includes nine states that have no sexual orientation or gender identity state statutes. According to Chief Executive, the top ten states for business also only have nine states, currently, that don't have SOGI language. So 28 states don't have SOGI in their statutes, regarding public accommodations and employment. I encourage the committee to not advance LB169.

WAYNE: Thank you--

KAREN BOWLING: I will--

WAYNE: Thank you for your time. I'm sorry.

KAREN BOWLING: Yep, thank you.

WAYNE: Thank you for your testimony. I'm sure-- I'll ask this [INAUDIBLE]. Will you finish your thought?

KAREN BOWLING: Yes. Also, just noted that in the Section 18, Section 48-1122, that would actually prohibit faith-based nonprofits from doing contractual work with the state government. So you're going to eliminate some of the faith-based adoption and foster care placements, who currently, are third-- they place a third of our, our kids needing

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attention. This would make it virtually, if passed, impossible to do a contract with the state. I'll take any other questions.

WAYNE: Any-- seeing none-- oh, Senator Geist.

GEIST: I'll just ask quickly. So would that be termed a religious organization? Would those be termed a religious--

KAREN BOWLING: Not necessarily.

GEIST: --OK.

KAREN BOWLING: Not necessarily, but they would disqualify because that part-- section requires that you have SOGI language in any type of contract that you would execute with the state.

GEIST: And that just--

KAREN BOWLING: Would--

GEIST: --conflict-- that conflicts with their mission.

KAREN BOWLING: Right. Right.

GEIST: OK.

KAREN BOWLING: Their mission.

GEIST: OK. Thank you.

KAREN BOWLING: And I think it is worth noting, it doesn't mean that they're not going to serve the LGBT community. In fact, they do. They do provide foster care help. The reality is, though, it would prevent them in getting any contracts in the future.

GEIST: Thank you for that clarification.

WAYNE: Any other questions? Seeing none, thank you for being here.

KAREN BOWLING: Thank you for your time.

WAYNE: Next opponent. Next opponent. Next opponent.

TED LEWISTON: Good afternoon, Chairman Wayne, senators on the committee. My name is Ted Lewiston, T-e-d L-e-w-i-s-t--o-n. I am representing myself in opposing LB169. I-- we've heard a lot of

testimony of people talk about not feeling, safe about the supposed business benefits if this went into law, but I have not heard any concrete numbers or even studies showing the prevalence of people, within Nebraska, being discriminated against, discriminated against, in employment, promotion, public housing, education or-- not public housing, excuse me, housing, education, any other categories on behalf-- because of their sexual orientation or gender status. It appears that we're trying to solve a problem that simply does not exist in Nebraska. And if people-- we've heard people say they don't feel safe living here or they know people that have moved out of state or potential employees that don't want to move here because they don't feel safe, safe from what? Are there any people being attacked on the streets because of their sexual orientation? Of course not. There are laws against that. And when those-- if and when those things happen, we already have laws against assault, murder, robbery, all those other types of things. So what, what do we tell them about safety? The safety does not really enter this equation. If people are looking for a safe place to live, to me, they would be looking more at things like the, the rates of violent crime, how many burglaries occur per capita. In that case, Nebraska would rate very high on safety as opposed to, oh, we don't have a law that says you can't discriminate under certain categories. To me, it's a problem that is a boogeyman and we're-- the, the LB169 is like a silver bullet, to kill the boogeyman that doesn't really have a practical existence in Nebraska life. Thank you very much.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

TED LEWISTON: Thank you.

WAYNE: Next opponent.

FRANCIS KUHLMAN: Francis Kuhlman, Lincoln, Nebraska. What's your gender identity? How often can your gender identity change? Today, I'm aporagender, an umbrella term and nonbinary gender identity, describing the experience of having a specific gender that's different from a man or a woman or any combination of the two. Mr. Employer, that's what I am today. Please call me by my correct pronoun. How many correct pronouns are there? Like, half a dozen? But tomorrow, guess what I'm going to be? How often can I change my gender identity? And you better have the right bathroom for me; if I want to play on the right softball team, coed, all guys, all girls; you better make sure and not diss me on this or I'm going to sue. OK. What are some of the

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genders out there? Well, there's androgyne, we already covered that, aporagender, we've already covered that, bigender-- someone who identifies with two distinct genders. I'm a demi-boy. This nonbinary gender identity, identity describes someone who partially identifies with being a boy, a man or masculine, just partially or I'm a dyadic, d-y-a-d-i-c. This describes people who have sex characteristics such as chromosomes, hormones, internal organs, or anatomy that can easily be categorized into the binary sex framework of male or female. No, no. Tomorrow, I'm going to be FTM, female to male. This term is most commonly used to refer to trans males, trans men and some transmasculine people who are assigned female at birth. OK. What about maverique? That's what I want to be on Thursday. This nonbinary gender identity emphasizes the inner experience of gender. Or I want to be male to female, multigender bigender, trigender; we're opening Pandora's box here, ladies and gentlemen. Let's just keep it the biblical male and female. Thank you.

WAYNE: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here. Next opponent. Next opponent. Seeing none, anybody testifying in the neutral capacity, neutral capacity? Welcome.

PAULA GARDNER: Thank you. Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Paula Gardner, P-a-u-l-a G-a-r-d-n-e-r, and I'm the executive director of the Nebraska Equal Opportunity Commission and I'm speaking here in a neutral capacity on LB169. A significant portion of LB169 would amend the Nebraska Fair Employment Practice Act, over which NEOC has jurisdiction. For some context, the Nebraska Equal Opportunity Commission is a small state agency with 26 employees that work out of our offices in Lincoln, Omaha and Scottsbluff. Our mission is to eliminate unlawful discrimination in Nebraska through effective case processing and public education activities. Given our mission, we value legislative efforts to ensure that all Nebraska workers go to work each day in an environment that is free from discrimination. This bill is looking to add sexual orientation and gender identity as protected classes. As you're aware, the Supreme Court, in its Bostock decision, determined that sex means "because of sex" and therefore, includes sexual orientation and gender identity. As a result of this, the NEOC, through its work-share agreement with the federal Equal Employment Opportunity Commission, investigates and processes cases, using this definition, for charges filed in the state of Nebraska on sexual orientation and gender identity. As part of that work-share agreement, the EEOC currently reimburses us for those investigations

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where a federal charge is also filed. While at this time it does not affect our work-share agreement, this addition ensures that Nebraskans and the courts are clear about the coverage, because it is clear language in the statute. We see this bill as helping to protect not only employees, but also public and private employers, by enhancing and clarifying existing employment discrimination laws in Nebraska and by bridging the gap between state and federal laws. And I do just want to briefly touch on the amendment that's not before you, but could be before you, because, again, of our work share agreement with the federal EEOC, any charges that would be filed for employers who have less than 15 employees, we would not be reimbursed for those investigations. And so, should that amendment pass, we would have a fiscal note with that. And I just want to say that I did not see anywhere, in this LB169, any mention of the state public accommodations laws, over which I have jurisdiction.

WAYNE: Any questions from the committee? Senator Geist.

GEIST: And I'm sorry. Again, I'm not an attorney. What does that mean? What do you mean you don't have any jurisdiction over the-- that would mean that--

PAULA GARDNER: No, we, we have jurisdiction over the state public accommodation laws.

GEIST: OK.

PAULA GARDNER: Those laws, those statutes, are not referenced in LB169.

GEIST: So you're saying--

PAULA GARDNER: The state public accommodation law is--

GEIST: --is not--

PAULA GARDNER: --Statute 20-134.

GEIST: OK. So that's not included in this?

PAULA GARDNER: It's not included in this at all. No. If you look at the statutory numbers--

GEIST: OK. So--

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PAULA GARDNER: --that's not included.

GEIST: Even though it says, on the first page that--

PAULA GARDNER: That, that has, that has nothing to do with the state public accommodation law. That has to do with cities and counties--

GEIST: OK.

PAULA GARDNER: --and their ability to pass laws, their own municipal laws.

GEIST: All right.

PAULA GARDNER: I, I can assure you and I'll let Senator Hunt speak to it, but it does not contain--

GEIST: OK.

PAULA GARDNER: --anything about the state level accommodations.

GEIST: No. I'm not-- I wasn't trying to figure out what-- that in my head. I'm not, in my head, disputing what you're saying. I don't know. Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Anybody else on neutral? Neutral? Welcome.

COLLIN BONNIE: Hello. My name is Collin Bonnie, that's C-o-l-l-i-n B-o-n-n-i-e. Originally, I have wrote this big speech in opposition to this bill because I was concerned about religious institutions and people with religious beliefs being targeted. However, after reading the bill more closely, I discovered the following under Section 2, paragraph 6, in regards to prohibiting disqualifications due to one's sexual orientation, along with exceptions: for prohibiting disqualification of any person from taking an examination from promotion or from holding a position because of race, sex, unless it constitutes a bona fide occupational qualification, national origin, physical disabilities, age, sexual orientation, gender identity, political or religious opinions or affiliations or other factors which have no bearing upon the individual's fitness to hold the position. Unless I'm mistaken, it appears that religious people who do not want to hire LGBT people, based on their religious beliefs, will not be negatively affected by this law. At the same time, I wouldn't be surprised if someone would try and sue someone, due to their religious

beliefs, even though the law says other-- even though the proposed law would say otherwise. Bad faith actors do exist and I'm concerned that the sexual orientation additions to the law can be abused. However, I do see the benefit, if this bill were to become a law, in terms of overall net economic gain, stopping Nebraska's brain drain and restoring good relations among the LGBT community. I will say that while my evangelical background and morals prevent me from supporting this bill, I'm not in complete opposition to this bill, just as long as religious freedoms are to be respected, as defined in the First Amendment. We're all Nebraskans here at the end of the day. Thank you for your time.

WAYNE: Thank you. Any questions? Seeing none, thank you for being here.

COLLIN BONNIE: Thanks.

WAYNE: Any other neutral testifiers? As Senator Hunt comes up to close, we have 465 letters: 78 in support and 387 in opposition. Senator Hunt to close.

HUNT: Thank you, members of the Judiciary Committee. And thank you so much to everybody who came to testify. I didn't really know who to expect for this hearing and I was so encouraged to see the variety of viewpoints, you know, from both sides, honestly. And this was a great hearing, I think. You know, from the first few testifiers who spoke, you can see that this is clearly a corporate handout bill that I've introduced. That's my goal here. Just kidding. This is just Senator Hunt working for big business, as usual. But no, seriously, I mean, I think it really says something that leaders in our business community have come today. They've stayed for the whole hearing and that this is a priority for people who are driving the economy of Nebraska, who are some of the biggest employers in our state. And it's just an idea of whose time has come. To address some comments that some people made, I mean, nothing is going to stop people who want to discriminate from doing that. This law is not going to stop discrimination and that's not the goal. I mean, in the, in the gay community, you know, you cannot compare, ever, like the experience of being queer with any other intersections of, of oppression, like race or gender or something like that. But the goal can't be to like, get rid of all discrimination. The goal is just to say, in Nebraska, these are the values that we have for the employees that we're going to be having in our state and that's that. I think that it is a messaging problem for our state, honestly, that we don't have these protections in law. As

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you heard people testify from the business community, they've offered jobs to people who said, I have a husband and I'm a man, so this isn't really a place that I feel like I'll be welcomed. And in past years, if you ever want to go back and look at past testimony, we heard from numerous people in the Nebraska community who were fired because of their sexual orientation. It was made explicitly clear that that's what happened. And there are lots of statistics about this that have been gathered by the University of Nebraska at Omaha, the University of Nebraska-Lincoln, different nonprofits have different data, and they're all pulling from different sources. But whether you want to say, like, what percentage of people are discriminated or just listen to the anecdotes that people are sharing, it's clearly important to a lot of people. And you know, honestly, the idea that homophobia is the swing-- the flip side of the opinion to being gay and that both sides are valid or something like that, that's, that's not right. And that's not what we're talking about here. People cannot change who they are. Somebody who is born this way and they know who they are and they have the courage to live in a state that conspires to oppress them in so many ways, having the courage to do that is not an opinion. It's not a view. And I think that we have to, in this body, stop characterizing being gay or being queer or whatever as a view or an opinion. And then, at the same time say-- and it's just as valid as an opinion if you don't support it. You know, you wouldn't say that about a man and a woman. You wouldn't say that about a black person and a white person. And I think that in a-- we talk about intersections of, of marginalization, it's the same. You wouldn't say, you know, I support you or don't support you and it's all valid. It's not. It's not valid. So in conclusion, you know, the goal isn't really to stop discrimination. The goal is to show the rest of the country that, in Nebraska, we do not have legalized discrimination. And me and 67,000 other Nebraskans who identify as LGBTQ-plus would appreciate this bill finally having a fair chance on the floor. And I'd be happy to answer any questions.

WAYNE: Senator DeKay.

DeKAY: Thank you. Thank you, Senator Hunt. You said that there were people that were losing their jobs, not based on performance?

HUNT: Yes, that's right.

DeKAY: OK.

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HUNT: One example is Ralph Kellogg, who lost his job several years ago and he couldn't come to this hearing. But he's come to many, many hearings years going on and so, I can get you a copy of his previous testimony or he can come meet with any of you, as well. But there's numerous examples like that.

DeKAY: Follow up question: what, what actions are being taken, based on discrimination or however, since it wasn't job performance related?

HUNT: Well, in his case, there's no action that he could take, since it was completely legal to discriminate against him in Nebraska. Under Bostock, which was not in place at the time, but what could happen now is somebody could bring a federal discrimination case that would have to be-- that would have to play out in federal court. That is a lot more expensive and a lot more difficult than just having a local or state, you know, judiciary figure out the problem, which is what the-- it's what the EEOC was talking about, the NEOC, saying that they spend a lot of resources and a lot of time kind of helping people with these claims. And they do a lot of education around this stuff for small businesses. And it's really, kind of, a federal issue since we don't have a state law around this. So when I hear them say that, it makes me think it might actually be less expensive for Nebraska, you know, businesses and for the administrative burden of the NEOC to pass this law so that there isn't any ambiguity.

DeKAY: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you.

HUNT: Thank you.

WAYNE: And that'll close the hearing on LB169. And we will open the hearing on LB1-- sorry-- LB316, Senator Fred--

DeBOER: He's introducing it. He's got two at the same time. He's got two bills at the same time.

WAYNE: Well, let's let, let them clear out a little bit. We'll take like a short, three-minute recess.

[BREAK]

WAYNE: We are on. We will now open the hearing on LB316.

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FREDRICKSON: Thank you, Chair Wayne, and good afternoon. Thank you, Chairman Wayne and members of the Judiciary Committee. For the record, I am John Fredrickson, J-o-h-n F-r-e-d-r-i-c-k-s-o-n. I represent District 20, which is in central west Omaha. I am happy to be here today to introduce LB316, which makes Nebraska statutes consistent with federal law, by using general-- gender neutral, neutral terminology on marriage applications and certificates. Obergefell v. Hodges made marriage equality the law of the land nearly eight years ago and federal legislation, passed last year, ensures that Nebraska will continue to recognize same sex marriages, even if the court overturns its earlier decision. Therefore, it's time for Nebraska forms for the application, licenses and certificate of marriage to reflect our reality. This is not only true because it affords the proper respect for applicants, it's also true because it brings clarity for county officials who process these applications. However, LB316 not only cleans up gender terminology, but also removes outdated language prohibiting a person who has a venereal disease from marrying in Nebraska. This provision in law is obviously no longer enforced. I also bring to you, AM520, which clarifies the use of the word spouse and inserts a place for a maiden name for both spouses. Currently, the maiden name space is only allowed for the applicant or spouse identified as bride. In reality, either spouse may have a maiden name. AM520 also strikes the word time from the marriage certificate and inserts date. For the clerks, the date is actually the relevant piece of information and not the time. The issue is that people are leaving off the date and writing the time instead. LB316 with AM520 is a clean up bill that seeks to make, make Nebraska marriage applications, licenses and certificates consistent with federal law. I ask you to advance this bill from committee with the amendment. And with that, I'll be glad to answer any questions you may have or refer them to the experts behind me.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

FREDRICKSON: All right. And I might be back for close, but I'm running to HHS to introduce as well, so.

WAYNE: We'll see how it goes.

FREDRICKSON: All right. Thank you.

WAYNE: First proponent.

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COURTNEY LYONS: Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Courtney Lyons, C-o-u-r-t-n-e-y L-y-o-n-s, and I'm the deputy Clerk, here on behalf of Lancaster County Clerk Matt Hansen. I'm here in support of LB316 and I'm appreciative to Senator Fredrickson for introducing it this session. When Senator Fredrickson and his staff gave us a draft of this bill, I took it to our records staff to get their thoughts. We have four staff members who, among other duties, process almost 2,000 marriage licenses every year. Their immediate reaction was excitement that another effort was being made to update these statutes. For them, the most helpful portion of the bill is in Section 4, (4), updating the wording for applicants from Groom/ Party A and Bride/Party B to simply Spouse 1 and Spouse 2. I've handed out to you all a blank marriage license so you can see what I'm referencing. When couples come into the office to apply for a marriage license, they first fill out an application, which is created by our office, which we then use to fill in their information into the DHHS online marriage system, which then creates the license. The license is then given to the couple for their officiant and witnesses to sign, after their marriage ceremony. The completed marriage license is returned to our office for us to file with the state. While our application does not use the terms bride and groom, records staff makes sure to explain that to couples that the actual marriage license they receive does. The bride and groom wording continues to be a source of confusion and frustration when same sex couples, same sex couples come into our office. Records staff are forced to make do with categories that don't fit and it falls on them to explain that discrepancy to couples coming into our office. Updating to Spouse 1 and Spouse 2 will alleviate this problem. In addition, we fully support proposed amendment AM520, which would further clarify the desired wording for the applicants, as well as provide a space for both parties to fill out a maiden name. As you can see from [INAUDIBLE] license I gave you, only Party B currently is able to provide a maiden name. This change would allow both applicants to provide a maiden name most-- helping same sex couples, same sex couples, but also, this would help men who have changed their name previously, due to marriage. Currently, staff gets around this by putting a maiden name for Party A in parentheses on line number 3, with the rest of their name. Again, I encourage the committee to support the bill and the amendment and I'd be happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent.

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MARYLEE MOULTON: Good afternoon, again, Senator Wayne and committee members. My name is Marylee Moulton, M-a-r-y-l-e-e M-o-u-l-t-o-n, and I'm with the League of Women Voters of Nebraska. The League of Women Voters of Nebraska supports equal rights for all under the-- under state and federal law. We support legislation to create parity between legal rights, obligations and benefits available to same gender couples with those available to heterosexual couples to marry under civil law. It is our position that the civil status of marriage is already clearly distinguished from the religious institution of marriage and that religious rights will be preserved. Updates and terminology for marriage stats-- statutes ensure that applicants, licenses and certificates of marriage do not conflict with the gender of the spouse, clarify-- gender of the spouse, clarifying civil documents. Replacing terms such as bride and groom with Spouse 1 and Spouse, Spouse 2 is inclusive and conforms to federal law, codified under public law number 117-228, that was the Respect for Marriage Act, adopted in December of 2022. These changes make the process of marriage in Nebraska an, an inclusive and positive experience for all Nebraskan-- Nebraskans. We urge you to advance LB316. Thank you very much.

WAYNE: Thank you. Any questions? Seeing none, thank you for being here. Next proponent. Welcome.

DAVID PONTIER: Chairperson Wayne, Senators, again, my name is David Pontier. I am a family law attorney at Koenig Dunne in Omaha, and again, I am the current chair of the Nebraska State Bar Association Family Law Legislative Committee. I, along with my firm, Koenig Dunne, strongly support LB316. I will also add that the Nebraska State Bar Association has also voted in support of LB316. As it's been said, LB316, it simply removes gendered language from our marriage and marriage certificate statutes. And therefore, LB316 ensures that Nebraska recognizes the U.S. constitutional truth that marriage is not solely limited to a man marrying a woman. I can't state this strongly enough that LB316, this bill does not infringe upon Nebraskans' beliefs if they so choose to hold them, that marriage is limited to a man and a woman. And again, if this bill is passed, nothing will prevent those Nebraskans from believing that. But what LB316 will do is it will ensure that those who don't espouse that same belief that they are respected and that they are included under our marriage laws. As the years tick by and these not so subliminal prejudices remain enshrined in our state laws, our state will stand out as an ugly state, a state that protects prejudice over people. It's time for us to change that. It's time for our laws to be updated, to be inclusive

and frankly, to comply with the United States Constitution. For these reasons and for those previously stated myself, along with my firm, Koenig Dunne, strongly urge this committee to support LB316 and advance it. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Oh, welcome. Sorry.

ARYN HUCK: Oh, no. You're good. Thank you, Senator Wayne and the Senators of the Judiciary Committee. My name is Aryn Huck, A-r-y-n H-u-c-k. I'm filling in for our director, Abbi Swatsworth. I'm the community organizer for OutNebraska, which is a statewide nonprofit working to celebrate and empower lesbian, gay, bisexual, transgender and queer and questioning Nebraskans. OutNebraska fully supports LB316. This bill proposes a simple change to government licenses that respects every couple seeking to marry. LB316 would finally update outdated language that currently denies gay couples existence. The U.S. Supreme Court decision, in Obergefell v. Hodges, same sex marriage has been legal across the country since 2015. Just last year, Congress passed the Respect for Marriage Act with bipartisan support. It is time for Nebraska's marriage language to reflect the reality that gay couples can and do get married. Support for same sex marriage is broad. A 2019 study, by the Pew Research Center of religion and public life, shows that about two-thirds of white, mainline Protestants, about 66 percent of them, support same sex marriage, as do a similar share of Catholics, at 61 percent. The most recent 2022 study by Pew Research found that these opinions have largely stayed consistent, with growing support among 18-29 year olds, that support at 75 percent. Under the changes proposed by LB316, heterosexual couples will not be treated any differently. The update simply would reflect what has already been the law of the land since 2015, that there are two spouses; not all couples will be a bride and groom. This matter mattered to Nebraskans. There are an estimated 67,000 LGBTQ Nebraskans living in our state, which is more than the entire population of Grand Island, 52,000 or of Bellevue, 64,000. If every couple, you know, filing to marry in Grand Island had to list their address as either Kearney or Lincoln, we would, understandably, have a lot of people upset that they cannot be properly recognized by the government or-- sorry-- not be properly recognized on the government document. And that's all that gay couples want: to be treated and to be recognized fairly by their government. LB316 is a language clean up bill, yet its effects were welcome in a firm with thousands of Nebraskans, including myself. The small changes will ensure that every couple feels only love and support on their wedding day, including

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when they sign their official document that says their marriage is recognized for the state of Nebraska. So thank you. We urge you to forward the LB316 to General File. And I'm happy to answer any questions you have, as I'm also someone who has gotten married in this state, had to fill out the paperwork and have some personal experience with that. So thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

ARYN HUCK: Thank you.

WAYNE: Next proponent.

JACOB CARMICHAEL: Hello again. I'm so sorry for running in, but there are too many hearings back to back and moving too quickly today for me to track them well. My name is Jacob Carmichael, J-a-c-o-b C-a-r-m-i-c-h-a-e-- h-a-e-l. God, I'm tired. Sorry.

WAYNE: You're fine.

JACOB CARMICHAEL: I'm going to refer back to some of my earlier testimony. Hopefully, the majority of you were in here for it. But if Obergefell v. Hodges is challenged, these state statutes stand. Hundreds, if not thousands of married couples across this state will be in legal jeopardy. And referring back to Senator DeBoer's bill, that not only creates a legal crisis, it creates a crisis in our foster care systems, where, to take care of vulnerable children in this state, we not only need to protect the systems and increase the amount of couples, but we need to make sure that there's more couples that are able to do that, if Senator DeBoer's bill is not passed. Just furthering a bit of logic from there, but it truly is an outdated piece of language, throughout the bill, that needs to be brought up to modern constitutional standards. There is no reason for it to stay husband and wife. You are fully able to believe that if you want to. I grew up Catholic. I'm fully aware of majority of the church's position, the majority of what I was told throughout my life. But the reality is I left the church and I left the church for a reason and I shouldn't have to abide by the church's logic any more. And I shouldn't be forced by the government to do so. That's the basis of the argument. The-- I left the Catholic Church and I had the ability to leave the Catholic Church and the teaching-- teachings of the Catholic Church and of the Protestant denom-- like, conservative Protestant denominations should have no legal holdover over my rights.

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That's the basis of the argument. Regardless of any of the benefits of the institution of marriage or anything else, it's an issue of the separation of religion and state. But that's it. Probably close to my end, so thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here again.

JACOB CARMICHAEL: Thank you.

WAYNE: Next proponent.

LACIE BOLTE: Hello, again. My name is Lacie Bolte, L-a-c-e-y B-o-l-t-e, and I'm a representative of Nebraska Aids Project, a nonprofit organization that provides services for people living with HIV. I have to head to another hearing, so I have a written testimony that I provided. Just, sort of, two points I want to make that maybe haven't been already brought up. If, like previous testifiers have mentioned, that this is overturned at the Supreme Court level and Nebraska's statute stands, you really put folks in a really scary situation of not being able to make medical decisions on their partner's behalf, their husband or wife or behalf. And so, I think we can remember early in the AIDS epidemic, when folks had to be-- their wishes were not met because the next of kin was not recognized legally. So we have a really important decision to make here. And additionally, the stigmatizing language in our statute about venereal disease has absolutely no place in marriage law. So I really hope that we can clean this up and pass LB316. Any questions?

WAYNE: Seeing none, thank you for being here. Next proponent.

DAN ESCH: Hello, Senator Wayne and members of the Judiciary Committee. My name is Dan Esch, first name D-a-n, last name, E-s-c-h. I'm a Douglas County clerk. I really don't have too much more to add. I think a lot of the previous speakers hit all the notes I would have. I have not seen the language for the amendment, but the way Senator Fredrickson described it, I would certainly be supportive of that, as well. So I'm happy to answer any questions if you have any.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: What does your county do when two people have maiden names or married-- previous married names or something like that?

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DAN ESCH: I think they do it the same way that they Lancaster described, where we have them-- one of them just has to go on the-- line 3.

DeBOER: OK. Thank you.

DAN ESCH: So if you're [INAUDIBLE] Yeah. Line 10 provides for a maiden name, line 3 does not, but unfortunately, it just has to--

DeBOER: How does that work in your form-- input forms and stuff? Do you have a way to make that work?

DAN ESCH: Yeah. I mean, you just, you just basically have a first, middle and then--

DeBOER: OK.

DAN ESCH: --two last names. And I, I, I gotta be honest, I guess I'm not sure what order it would go in. I think the maiden name would go fourth, to kind of match up with the-- because of-- on line 10, the maiden name would be the fourth name, if there was one. So I, I guess I've always assumed that's how we've, we've done it. I, personally, haven't had to issue a marriage license where that was the case though, so.

DeBOER: OK.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

DAN ESCH: All right. Thanks.

CARINA McCORMICK: Hello, again. Carina McCormick, C-a-r-i-n-a M-c-C-o-r-m-i-c-k. When you were kids, did you have those books about funny laws that different state had? I don't know. And they-- I remember thinking those were so funny. I don't know. If you have kids, do they, do they have those books now, where, like, you go through and you laugh at, like, how ridiculous it is. You cannot believe there's still these weird laws about, like, horses on the street and stuff. That's what I kind of feel like when I look through the language that this bill is trying to change. This language that this bill is trying to change is so outdated that it would be laughable if it wasn't so cruel to keep it there. When people get married-- when two people choose to get married, that should be a happy day for them. I remember the day that we brought our marriage--

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WAYNE: I'm sorry. I'm going to give you a little bit more time, but did you spell your name? Say and spell your name for the record? I just couldn't remember.

CARINA McCORMICK: I believe I did.

ANGENITA PIERRE-LOUIS: Yeah, she did.

WAYNE: Oh, she did? OK. We're, we're, we're here-- we're sitting here going, I think she did, I don't think she did. Sorry. Go ahead.

CARINA McCORMICK: The day that, the day that we got married, we brought our completed marriage license back to the clerk. And I remember I said, we have something for you. And he said, did you guys get married? And it was just part of the whole experience and it was joyous. But I'm a woman and I married a man, so I got to have that experience. And we shouldn't take that away from same sex couples, having to be reminded on their wedding day that the state doesn't view their marriage as, like, fully legitimate or something like that, even though the law does. And I just want to point out that, you know, if this law passes and then, somehow, something changes, where, for some reason, gay marriage is like, no longer allowed, it would not be incorrect to still say Spouse 1 and Spouse 2. Right. Like a man marrying a woman, it still totally makes sense to say Spouse 1 and Spouse 2. So this, this would still work, regardless if we just change it to Spouse 1 and Spouse 2. And the representative from the Nebraska AIDS Project, also like, pointed out like, how outdated this is, about the venereal disease. It's sort of a very different topic. And I-- I'm not suggesting like only passing that part, but that part definitely needs to get changed because clearly, with things like HIV and there's medications that can prevent that, like we definitely cannot further stigmatize people with sexually transmitted diseases in the state law. And I just think that all those pieces together really show that we need to update this language to be consistent with existing law, Supreme Court decisions, and also, just basic understanding of marriage in contemporary times.

WAYNE: Any questions from the-- seeing none, thank you for being here. Next proponent. Welcome.

JANE SEU: Good afternoon. Chair, members of the committee, my name is Jane Seu, J-a-n-e S-e-u. I'm testifying on behalf of the ACLU of Nebraska in support of LB316, and we thank Senator Fredrickson for introducing this legislation. My testimony is very brief. As you

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heard, this is, this is a common sense update to our state statutes to include all Nebraskans in the legal process institution of marriage. This bill makes our laws more inclusive and it does reflect the current federal law with the Supreme Court's marriage equality ruling, Obergefell, in 2015. Any couple who decides to marry should have equal access to that right, regardless of their gender identity or sexual orientation. The bill reduces confusion and makes it easier for Nebraskans to-- for all Nebraskans to access those legal documents and processes to marry. But to be clear, it is also more than an administrative fix. It does express a value of inclusion and validity and identities, which I've heard a lot today about the, the value added when folks feel included and validated in the state, the value they can add to our communities, to our job markets and to our communities. So again, we urge the committee to advance this bill. And happy to answer any questions.

DeBOER: Are there any questions for this testifier? I do not see any, so thank you for being here. Next proponent. Is there anyone else who would like to testify in favor of this bill? Then we'll move to the first opponent. Welcome to your Judiciary Committee.

MARION MINER: Thank you. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference. So let me just state, first of all, we certainly understand what Obergefell did in 2015. And our problem is not really with forms. Our purpose for being here is to witness to the truth about marriage. The conference opposes LB316 because it would engrave in state statute the mistaken view of the reason the state recognizes, supports, supports and solemnizes marriage as a public good. Marriage and family are the foundation and basic building block of society. Getting marriage wrong has large scale consequences and entrenching those mistakes in statute only deepens the effects. There are two principal ideas today about what marriage is: a conjugal view and a much newer, revisionist view. The revisionist view of Obergefell v. Hodges, in 2015, deems marriage a public recognition of a committed relationship between consenting adults for their fulfillment. These commitments, of course, can be deep and meaningful, but it is a very recent thing to claim they can constitute a marriage relationship, where there is no capacity for sexual complementarity. In this revisionist view, what distinguishes marriage from other relationships is its unique emotional intensity. The conjugal view of marriage, often called traditional, calls for a permanent and exclusive union between a man and a woman with each other and any children born from their sexual union. Sex between men

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and women often results in children. And for these new and highly dependent people, these children, there is no path to physical, moral and cultural maturity without a long and delicate process of ongoing care and supervision, one to which men and women, typically, bring different strengths and for which they are better suited the more closely related they are to the children. It is for the sake of children who have the-- a right to their mother and father, unless unavoidable tragedy makes it impossible, that makes marriage unique among relationships and a public good that the state should recognize and support. LB316 would, as a matter of state public policy, abandon the conjugal view of marriage for a revisionist one, making very clear by its changes that the state's view of marriage has no link to sexual relationship and the welfare of the children that can result from it, in other words, to the very reason for marriage. As I said last year in opposition to LB745, LB-- opposition to LB316 may seem quixotic or like, simple contrarianism to some, given the ruling of Obergefell eight years ago, that marriage is so fundamentally important that resistance to codifying that mistaken decision is imperative. We respectfully urge your opposition, therefore, to LB316.

DeBOER: OK. Thank you. Are there any questions for this testifier? The one thing I'll ask you about is are you suggesting that in your quotation and I think maybe this is just your quotation, you're saying that if someone is related, then it's going to strengthen the, the bond between the parent and the child. But obviously, with adoption, I mean, you guys are in favor of adoption, right?

MARION MINER: Yeah, of course.

DeBOER: I mean, I just want to make sure. You guys are in favor of adoption?

MARION MINER: Sure. Yes, we are.

DeBOER: OK. So you're in favor of adoption--

MARION MINER: Yeah.

DeBOER: So, so someone who can adopt a child would be close to them. Right. So it isn't simply limited to biological--

MARION MINER: No, it's not. It's not.

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DeBOER: --connection, that there's a connection between a parent and a child. So the public good of wanting to promote healthy relationships for parent and child is not just biological.

MARION MINER: That's true. Yes.

DeBOER: OK.

MARION MINER: Exactly. Yeah. Thanks for the chance to clarify that.

DeBOER: So--

MARION MINER: So go ahead. If you're not finished, go ahead.

DeBOER: --yeah. So, so the relationship between families can also be adoptive, which could be two mothers, two fathers, two whatever. They could still have a close relationship between the children and the parents. You're going to argue, I bet, that, oh, well, but there needs to be one man and one woman because they bring different things to the marriage. I'm going to disagree, but you're going to say that, right?

MARION MINER: Yes, that's part of what I would say. Yes. So, a couple things-- one, biology does matter and, and there is a lot of social science that bears that out.

DeBOER: With respect to what?

MARION MINER: With respect, with respect to what's going to result in the best outcomes for the child, in terms of their well-being and in terms of their achievement and their ability to stay out of trouble and all-- and avoid early pregnancy and all those kinds of things. Biology does matter. The very best situation for a child is with both married biological parents and that's borne out over decades of social science.

DeBOER: But adoption.

MARION MINER: But sometimes, right, that's impossible. Because of some unavoidable tragedy, the parents die or the parents are abusive or, or--

DeBOER: What if--

MARION MINER: --any other number of things, then what the child is owed is the very next best possible thing and that is a married

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relationship of man and woman who can act in-- as adoptive mother and adoptive father.

DeBOER: OK. But it's not just because there's some tragedy. Sometimes we suggest that people should have the option of giving up a child for adoption. It's not just some tragedy. That might be another reason that it would happen. I just--

MARION MINER: I'm, I'm not sure what you're [INAUDIBLE] there.

DeBOER: --well, you implied that, that the only time we would want to go to that next step was if there was some tragedy.

MARION MINER: Yeah.

DeBOER: But there are other reasons why people might want to have their child adopted.

MARION MINER: That, that would not be a, a tragic situation. I--

DeBOER: Yeah. Maybe they just, maybe they just can't take care of it right now.

MARION MINER: Right. And, and I would say that's, that's a tragic situation.

DeBOER: OK. All right.

MARION MINER: That doesn't mean it's not the best situation, in that the best thing to do in that situation, but it is a tragedy when you have to part biological parents from their children.

DeBOER: Big advocate for making sure that we have the ability to adopt people, so I just didn't want that to be unclear on the record.

MARION MINER: Sure. Thank you.

DeBOER: Thank you. Are there any other questions? Thank you.

MARION MINER: Thank you.

DeBOER: Next opponent.

TED LEWISTON: Good afternoon, Vice Chair DeBoer and committee members. Ted Lewiston, T-e-d L-e-w-i-s-t-o-n. I'm speaking in opposition to LB316 for several reasons, but I'll try to make it short. From the

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very beginning of humanity, the foundation of society is a family unit consisting of a man and a woman in a permanent arrangement that we know as marriage and potentially, children from that relationship. And the bottom line, biologically, is every single human being has a father and a mother, whether they are adopted, whether they-- whether it was in-vitro fertilization or whatever the circumstances, every child has, biologically, a father and a mother. And every human being is, biologically, a male or a female. These are biological facts. The bottom line is marriage has been around as long as there have been people. The government, neither the federal government or the state government created marriage. Neither can the government redefine marriage to be something else other than a man or a woman. We went through this well over 100 years ago when Utah territory allowed polygamy and wanted to become a state. They had to give up polygamy to satisfy the marriage definition of one man, one woman. Now it seems that we are undoing that standard to meet current social trends. And that is a dangerous road to go down, because the, the-- when you redefine marriage to mean something else then a man and a woman, eventually marriage can be redefined to be anything. And when you redefine things, they lose their unique intrinsic value. And as was mentioned by the previous testifier, many, many studies over the last few decades have shown children do best and are safest in a family unit where they have a father and mother who are married, whether adopted, whether naturally born to that family, that is the best situation for children. We need to be cautious about trying to redefine the basic institution of society based on current social trends or to satisfy what feels like the right thing to do, when in reality it can have very negative consequences. Thank you.

DeBOER: Thank you very much. Any questions? I don't see any. Thank you for being here.

TED LEWISTON: Thank you.

DeBOER: Let's have our next opponent.

YOLANDA BURGOS: Good afternoon. My name is Yolanda Burgos and I am a longtime immigrant from Panama.

DeBOER: Can you spell your name for us, please?

YOLANDA BURGOS: Oh, excuse me. Y-o-l-a-n-d-a B-u-r-g-o-s. I'm an immigrant from Panama. I'm also a U.S. citizen who has lived in Nebraska for 63 years. I oppose eliminating husband and wife from the

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Nebraska Constitution, as proposed in LB316. The family structure is the bedrock of society. A solid family composed of a mother and a father is foundational and nurturing. It gives children the basic needs of security, comfort and belonging in an uncertain world, which is vital for them as they grow and mature into adulthood. Research has proved this to be true. Therefore, the family structure, consisting of a husband and wife, must be protected rather than changed and destroyed. Throughout the ages, people from all cultures around the world deeply esteem belonging to a family. And they highly regard the marriage as a natural bond between a man and a woman in the making and in the raising of a family. Nobody needs to be taught this. You can go to the most primitive cultures around the globe and the people understand this. Thank you.

DeBOER: Let me see if there's any questions. Sorry.

YOLANDA BURGOS: Oh.

DeBOER: Are there any questions for this testifier? OK. Oh, Senator DeKay had one.

DeKAY: No.

DeBOER: No, he didn't. OK. Good.

DeKAY: What do you mean good?

DeBOER: Next opponent. Next opponent.

MERLYN BARTELS: Good afternoon, Senators. Thank you for letting us have the opportunity to testify in front of you. My name's Merlyn Bartels. M-e-r-l-y-n B-a-r-t-e-l-s, and I am an opponent to LB316, because in our cultures and all of past history, marriages has been supported as being between a man and a woman or a husband and wife. In the past, we have thought husband and wife meant male and female. That was the definition of a marriage relationship. But in the last few years, we've been told to follow the science. And that tells us, in this case, you need a male and a female to continue life, no matter if it's human, animal or plant. You can take husband and wife off the marriage certificate and replace it with spouse 1 or spouse 2, which I personally feel like I'd be insulted if I was put as a number. And how are you going to decide if we are men-- two men marrying or two women, who's going to be one who's going to be two, I guess, is the other question there. But that would be up to them, I guess, so-- but it will never be a true scientific or biological family, as science sees

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it. I oppose this because using one and two does not define a true marriage relationship. Also, I was sitting in just as the other bill was finishing up. And Senator Hunt said, in her closing statement, that someone said they couldn't come to Nebraska for a job because he had a husband. So she is saying they refer to each other as husband and wife in their own relationships. So why change the wording is, I guess, is question I have. Thank you for your time and I do oppose this.

DeBOER: OK. Are there any questions? I don't see any.

MERLYN BARTELS: Thank you.

DeBOER: Thank you for being here. Next opponent. Good afternoon.

AMBER PARKER: Good afternoon. All right. Amber Parker, A-m-b-e-r last name Parker, P-a-r-k-e-r. I wasn't here to testify as an opponent earlier, before the changing of allowing just any two people in adoption. So I want to combine my thoughts and this is, maybe, something you guys haven't thought of. If we go forward to rename parent one and parent two from husband and wife, I want you guys to think of the doors that you are opening to. We, right now, are not watching our borders. We do not know how many people here are illegally-- illegally here that are connected with drug cartels, human trafficking. Arizona is finding this out. And you guys will hear more on this coming about. I want to let you know that during their elections in House Oversight and Elections Joint Committee [SIC], Jackie Burger [SIC] had shared great concerns, including that they had investigated that laundering of drug cartel monies through single home purchases in states. And that's where I want to park this out. So Senator DeBoer, your, your bill early-- I'm testifying as an opponent to LB316, as well as your adoption bill. What would this mean? This means if you change the language through all state laws and everything like that now-- as well as Arizona is finding out with-- that there were bribery and judges involved, they have city council members that they have and they, they got the documentation to prove this. What does this mean? We have drug cartels in the United States of America, through laundering, that are purchasing single family homes. You start going and changing our language, you better be making sure of what you're changing it to. Man and woman is a protective barrier. Life happens from a man and a woman. That is not-- that shouldn't be persecuted ever. We are made in the image of God as a male or female. Biological differences are shown. If we start changing this, you are opening the door for those in bribery in high positions that could

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come in and persuade you in these areas, as well. And what I'm telling you is we have to protect the children. What about the children coming over here? If you have, like, gang members, what-- MS-13 and other-- drug cartels, fentanyl, drug-- and human trafficking, connected in different branches that are working together with the United States government in areas that are about to be exposed. You have just opened the door and you want to add it as a legislative resolution or an amendment and changing man and woman. And I'm telling you, there will be people that will go underneath those guise, as well. And if you just want to allow any two people to adopt, you just made it so easy for two young men, who could be involved in human trafficking, to go across it through the state and underneath that, guise, and how your legislation is proposed and written. This needs to be, be-- I'm sorry, guys. There's a lot of emotion here. This is new news. But when we got drug cartels purchasing-- laundering through purchases of single family properties, we have judges in Arizona and they're also saying there are back doors to their voting machines. This is all connected and--

WAYNE: Thank you for--

AMBER PARKER: --yeah.

WAYNE: --your testimony.

AMBER PARKER: Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

AMBER PARKER: Thank you.

WAYNE: Next opponent. Welcome back.

MARILYN ASHER: Hi. Again, my name is Marilyn Asher, M-a-r-i-l-y-n A-s-h-e-r, and I want to testify in regard to LB316 and LR26CA today. I am opposed to the LB316, as well as LR26CA, which says that marriage should be removed from the Nebraska Constitution. However, I can understand why the senators who are proposing these changes in our Constitution are doing so. They have no regard for the fact that marriage has its roots in God's plans for society, which is demonstrated by the Judeo-Christian concept of marriage between one man and one woman. Heterosexual marriage is an institution that is recognized all over the world. When this concept of marriage is destroyed, it is not long before a culture goes down with it. This can

be seen in ancient Rome. Vishal Mangalwadi, in his book, *The Book that Made the World* [SIC], gives a review of Greco-Roman family life. He states, religious and aristocratic promotion of extramarital sex had colossal consequences. Easy availability of sex without commitment took away men's motivation to be married. Dislike for marriage had become evident as early as 131 B.C., when the Roman censor, Quintus Metellus Macedonicus, proposed that marriage be made mandatory. He later writes, another cumulative result of promiscuity, child marriage, mistreatment of women, divorce and fear of marriage was that Romans pagan population began to decline during the final years of the empire. Referring to *The Octavius of Minucius Felix*, Felix, Mongol Wadi [PHONETIC] states, the long term consequences of prostitution, permissiveness, singleness, divorce, abortion, infanticide and decline of population was that Roman towns began to shrink in numbers and size. Consequently, Rome became vulnerable. The Christian population grew faster than that of Romans' Pagans. Christians' choices is in favor of sexual purity, stable marriage and care for children, orphans and widows, aided civilization, but were not caused by concerns for civilization. Their motive was to please God by obeying his word. There we have it. Marriage between a man and a woman was designed by God and it benefits society. The proponents of LR26CA do not recognize that, nor do the proponents of LB316. The changes made by LB316 become a mechanical recitation of the state, which sanctions, sanctions a ceremony between spouse 1 and spouse 2 in Nebraska. The proponents of LR26CA are a step ahead of LB316, saying that marriage is not worth the paper by which it is certified. So why not get rid of marriage out of the Nebraska Constitution? I am quoting Roman leaders of that time. And you will find that America is coming very close to being the same society that was just described above and our civilization is threatened by insecurity because traditional marriage--

WAYNE: Thank you for your--

MARILYN ASHER: --is not being upheld.

WAYNE: Thank you for your testimony.

MARILYN ASHER: Thank you.

WAYNE: Senator Blood.

BLOOD: Thank you, Chair Wayne. Just a quick question. Are you referring to the Old Testament, as well as the New Testament? Because,

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in the Old Testament, weren't there multiple people that they talk about in our Bible: Abraham, Jacob and a long list of others--

MARILYN ASHER: Yes.

BLOOD: --that had multiple wives?

MARILYN ASHER: Yes, there were. That does not mean that was God's plan. He-- one man and one woman is what the plan for marriage is and that's what's recognized by our state and by [INAUDIBLE].

BLOOD: The, the only reason I brought up is you brought up Christian values.

MARILYN ASHER: Right.

BLOOD: And, and most people I know that refer to Christian values, utilize the Bible as a guide.

MARILYN ASHER: Sure.

BLOOD: And so, I just remember reading that--

MARILYN ASHER: Yes.

BLOOD: --there were multiple people in the Old Testament with multiple wives.

MARILYN ASHER: And that caused multiple problems. So.

BLOOD: Well, but it also made sure that, that their family went on and survived. I mean, there was, there was a principle behind it. Right.

MARILYN ASHER: But as the gentleman said before, even Utah was-- couldn't become a state, based on the fact that it was polygamous.

BLOOD: Now they just do it behind closed doors.

MARILYN ASHER: Yeah.

BLOOD: And now, it's more cult like and people are--

MARILYN ASHER: Yes.

BLOOD: --are being seriously hurt as a result of it.

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MARILYN ASHER: Right.

BLOOD: So sometimes, there's unintended consequences when people are--

MARILYN ASHER: Right.

BLOOD: --trying to impress their views upon others, wouldn't you say? Sometimes?

MARILYN ASHER: Um-hum. OK.

BLOOD: Thank you.

WAYNE: Thank you. Any other questions from the committee? Seeing none, thank you for being here. Next opponent. Next opponent. Next opponent. Anybody testifying in the neutral capacity? Neutral. All right.

MICHELLE BATES: My name is Michelle Bates, M-i-c-h-e-l-l-e B-a-t-e-s. I wasn't going to testify today, but I thought after hearing some comments, I should. First of all, prior to getting married in 1988, we had to get rubella testing. That is outdated now. We don't do that any longer. As times go by, everything becomes-- we have to go to what society is at that time. Same sex marriages and same sex relationships are here. Whether we want to admit that or not, they are here. And for the ones that quote the Bible, I believe, I believe in God. But we all have a right to believe in a higher being, whoever we do, but that it's not the person who makes our state laws. Our state laws are made by our senators and input from our second house. But it also does say, in Galatians 3:28, there is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for all of you is one in Jesus Christ. So therefore, there is not a male or female. Also, I've been married twice to men. And you know what? I didn't like either one of them at the end. So, so, so maybe, [INAUDIBLE] it would be better the third time around. But anyway, that's just the comments I have.

WAYNE: Thank you.

MICHELLE BATES: Thank you.

WAYNE: Seeing no questions, thank you. Any other person in neutral capacity? Neutral.

ANGIE PHILIPS: Good afternoon, Senators. Thank you for allowing me to testify today. I'm actually coming in neutral on this bill, because I

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don't actually believe that government should be involved in marriage at all. So it felt weird to come in here and testify in--

WAYNE: State and spell your name.

ANGIE PHILIPS: --oh, I'm sorry. My name is Angie Philips, A-n-g-i-e P-h-i-l-i-p-s. Anyway, so I, I did want to just come in and say, however, if government is going to be involved in marriage, then that should be equal. And as long as it's consensual, people should be able to get married. In addition, that was-- I was going to leave it at that, but after hearing some of the other testimony, I did also want to state that I am an atheist. I, I do not believe in a deity. And I would like to remind everyone here, that I am still a Nebraskan, I am still a taxpayer and you don't get to dictate what I do, based off of your religious beliefs. I also want to take the minute I have to thank Senator Blood for standing up for this on the committee or on the senate floor. This session has been very challenging for lots of people. As somebody that does not follow the Christian faith, there's been times it's been very scary. For example, Senator Murman got on the floor and said that the reason people go killing people is because they don't fear God or fear hell, which is a whole concept, in and of itself, that is very scary to me, but Senator Blood and some of the other folks that stood up on this [INAUDIBLE] to remind your peers that, although you're a Christian, it's not OK to force those beliefs. I just want to say I really appreciate that. Makes me feel safer in my home. That's all I have to say.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next, neutral testifier. Seeing none, as-- are you going to close for him? Well, you may--you're going to close for him? OK. Senator Fredrickson waives closing. There are 397 letters for the records, 50 in support and 347 in opposition. And that will close the hearing on LB316 and we will open the hearing on LR26CA. Senator Day, welcome to your Judiciary Committee.

DAY: Good evening, Chairman Wayne and members of the Judiciary Committee. My name is Jen Day, that's J-e-n D-a-y, and I represent Legislative District 49, in Sarpy County. I'm here this afternoon or this evening, rather, to introduce LR26CA, which would offer the chance to voters to repeal our state's archaic and outdated constitutional language that prohibits same sex marriage. Specifically, LR26CA would submit an amendment to the voters that would repeal Article I, Section 29, of the state's Constitution. When Senator Pansing Brooks brought this idea two years ago, she mentioned

that she modeled it after LR1CA, which Senator Wayne brought to strike Nebraska's slavery language from the state constitution, so there is precedent to this kind of cleanup. Additionally, 18 states allow for same sex marriage through statute or state court marriage recognition. There is no point in denying that this amendment was once overwhelmingly unpopular with Nebraska voters. In fact, Initiative 416, which banned same sex marriage, passed with over 70 percent in 2000. However, since then, many Americans have changed their views on gay marriage. In 1999, right before we passed the same sex marriage ban in Nebraska, Gallup found that 35 percent of Americans favored same sex marriage. Last year, Gallup measured it at 71 percent. Nebraskans have also had a change in thinking. The last time Pew Research Center polled Nebraskans on this question in 2015, 51 percent favored gay marriage and 46 percent opposed it. More recently, in 2021, the Public Religion Research Institute found that 58 percent of Nebraskans support gay marriage. Nebraskans are thoughtful people and 20 years is a long time. And given their evolution on this issue, it makes sense to offer them a chance to look at the same question they voted on in 2000. I know the initial reaction, for some members here today, might be why is this necessary? Same sex marriage has been allowed nationwide since Obergefell v. Hodges, and even more recently, the Respect for Marriage Act was signed into law. While I would argue that our state constitution should reflect our values and we should clean up archaic language, this issue now goes beyond that. In his concurring opinion with the majority on Dobbs v. Jackson, Justice Thomas argued that the Supreme Court should reconsider a number of past rulings that codified the rights of Americans and specifically identified Obergefell. On top of this, all of the justices in the Dobbs majority, who were on the court in 2015, also voted against Obergefell. What's more, there is nothing preventing future appointees from reading Obergefell as Justice Thomas does. Simply put, as it stands now, the decision of one or two justices in a future case may put the marriages of many Nebraskans at risk. In 2021, the Census American Community Survey projected that Nebraska has 2,762 same sex marriages. These are our friends and family members. They're our neighbors. They're part of our community and part of our state's story. If there is even a minor chance that Obergefell could be overturned, these families deserve the stability that is foundational to marriage. The knowledge that no matter what happens, your spouse will be there for you through good times and bad. As I mentioned before, the federal government recently codified same sex marriage, federally, in the Respect for Marriage Act. However, the Respect for Marriage Act does not affirmatively require states to recognize same

sex marriage. It only governs the interstate aspect of marriage, meaning that states must recognize the same sex marriage that was issued in another state. As such, the Respect for Marriage Act does not fully duplicate Obergefell. If the Supreme Court were to overturn Obergefell, states would be allowed to cease the issuance of marriage licenses, under the text of the Respect for Marriage Act. Just as a matter of process, if Obergefell hypothetically ceased to exist tomorrow, Article I, Section 29 of the state's Constitution would, again, have legal force. We often talk about reversing brain drain and making our state one of the best places to live in the country. How can we ask people to move to this state if we're going to turn around and tell them it's possible that, in the future, they might have to travel to get married just because of who they love? What does that say to someone thinking of pursuing a job opportunity or coming here for school that their marriage or their parents' marriage wouldn't have happened in this state? While I personally feel strongly about marriage equality, we are not asking the voters to endorse marriage equality. We are simply asking them to reevaluate their vote for-- excuse me-- to reevaluate their vote from 20 years ago. We hear it often here; the people are the second house. LR26CA would go back to the people after two decades and a pronounced change in public opinion and ask them, would you like to reconsider? With that, I'm happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, first proponent.

SUSAN KOENIG: Thank you for your attentiveness so late in the afternoon. My name is Susan Koenig, S-u-s-a-n K-o-e-n-i-g. I'm one of the founding partners of Koenig Dunne law firm in Omaha. And I'm here-- I'm appearing now on my own behalf, behalf of my firm, firm and on behalf of David Pontier, who needed to go retrieve his children. So, as you know, he is the current chair of the Nebraska State Bar Association Family Law Legislative Committee. We urge your support of LR26CA. Mr. Pontier advises that no proposed family law legislation in this session garnered more feedback to, to the, the committee that he chairs than this legislative resolution. And all, all of the feedback strongly supported it. The Nebraska-- this-- as, as Senator Day summed up so clearly, this allows Nebraska voters to decide whether or not we're going to keep this enshrined in our Constitution, after the United States Supreme Court has said, clearly, that it is unconstitutional. And now is the time for Nebraska voters to get to decide whether or not this prejudicial law should remain a part of the highest law of our land. So now is the time for us to update, be inclusive and comply with the United States Constitution and, and the

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ruling of the United States Supreme Court. So, along with our, our firm, I strongly urge the committee to support this resolution.

WAYNE: Any questions from the committee? Thank you for being here.

SUSAN KOENIG: Thank you.

WAYNE: Welcome back.

MARYLEE MOULTON: Thank you. Well, good evening, Senator Wayne and committee members. My name is Marylee Moulton, M-a-r-y-l-e-e M-o-u-l-t-o-n. I'm with the League of Women Voters of Nebraska. The League of Women Voters of Nebraska supports equal rights for all under state and federal law. We support legislation, equalizing of the legal rights, obligations and benefits available to same sex couples with those available to heterosexual couples, including legislation to permit same gen-- same gender couples to marry under civil law. It is our understanding that the civil status of marriage is already clearly distinguished from the religious institution of marriage and that religious rights will be preserved. Nebraska marriage laws should be updated to be in compliance with the Respect for Marriage Act, which received bipartisan support in the U.S. Congress before becoming law in December of 2022, and the U.S. Supreme Court precedent. In 2015, the Supreme Court found in favor of marriage equality in Obergefell v. Hodges, on the grounds that the right to marry is a fundamental right held by all couples, under both the due process clause and the Equal Protection Clause of the 14th Amendment to the Constitution. The ruling requires all states and territories to recognize same sex marriages on the same terms and conditions that they do heterosexual marriages. The case, which will celebrate its eighth anniversary this summer, was codified into federal law in, in December of 2022. It is important that we take steps now to update the language of the Nebraska State Constitution to reflect our national policy of marriage equality. It is worth noting that Obergefell and Hodges was not the culmination of one court case, but the consolidation origin-- of cases, originally representing 16 couples in 14 states. All of the cases were decided in favor of the same sex couples. The League of Women Voters of Nebraska believes this is an important issue. All Nebraskans we appreciate as-- as Nebraskans, we appreciate the opportunity to vote to make our Constitution more inclusive. Thank you for considering our position and for all you do for our, our state. And we urge you to pass this. Thank you. Good evening.

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WAYNE: Sorry. Thank you. We are-- next proponent. I'm getting tired. This coffee is not working. It's cold brew and it still ain't working. Welcome.

JAYDEN SPEED: Thank you. Good evening, Chairman Wayne and members of the Judiciary Committee. My name is Jayden Speed, J-a-y-d-e-n S-p-e-e-d. I am 18 years old, a senior in high school and a member of the LGBTQIA-plus community. I was born and raised in rural Cass County. I was a young person, terrified that my sexual orientation would mean poor treatment from peers, disappointment for my family or even violence from society. I am lucky, however, that my experience coming out was largely uneventful and others are not so lucky. I'm here to testify today in support of LR26CA, which will repeal Article I, Section 9 [SIC] of the Constitution of Nebraska. There is no reason, in the year 2023, that the Constitution of this state treats me any differently than my peers. It has never been the business of the government of this state or any state, on who I love and who I marry. Article I, Section 29, is hateful, it's outdated and as the 2015 landmark Supreme Court case, it's unconstitutional. Since today is Statehood Day, I want to also remind you of Nebraska's state motto, equality before the law. The motto was adopted in 1867, by HR41, introduced by a representative from my area of Plattsmouth, Nebraska. The history of this motto is to be disputed, but the ideal is clear. In Nebraska, everyone should be equal under our laws and our Constitution. Article I, Section 29 is a violation of our mottos and our ideals as a state. As state legislatures around the country, including this one, attempt to peel back the rights of LGBTQIA-plus people and return us to the 1950s, you have a unique opportunity to take a step in the right direction. You can help bend the moral arc of history towards justice for LGBTQIA-plus people in Nebraska. Nebraska's young people, especially, are watching you in this moment. The decisions you make on this bill and others, including LB574, LB575 and LB626, will impact whether young people want to remain in this state. I want Nebraska to be for me. I want to live here. I want to serve my community here and I eventually want to marry my future husband here. For me and many people like me, it is your decision of whether or not we are welcome in this state and I urge you to support LR26CA. Thank you.

WAYNE: Thank you. I like the word moral-- words moral arc. That was good. Any questions from the committee? Seeing-- I, I said just the way you put it together was good. I just thought it was good. Thank you. Sorry.

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JAYDEN SPEED: Thank you.

WAYNE: Just--

BLOOD: No. I just can't hear you when you look in that direction.

WAYNE: Oh. All right.

BLOOD: That's why I was trying to figure out what you were saying.

WAYNE: Yeah. The acoustics in this room are terrible. Welcome back.

ARYN HUCK: Thank you. Hello again, Chairman Wayne and senators of the Judiciary Committee. I am, again, Aryn Huck, A-r-y-n H-u-c-k. I am, again, filling in for our director, who had to go to another hearing. So I am not the executive director, I am the community organizer of Out Nebraska, which is a statewide nonpartisan nonprofit, working to celebrate and empower 67,000 LGBTQ Nebraskans. Out Nebraska is in support of LR26CA. No matter what we look like, where we come from or how we express ourselves, we all want to be-- we all want the freedom to be ourselves and to live healthy lives. Marriage is a deeply held value because it professes our devotion to someone we deeply love, value and respect. Our state's constitution-- our state Constitution's ban on same sex marriage is, right now, unconstitutional and unenforceable. The Supreme Court showed that all viewpoints can be respected when they issued their ruling in the 2015 case, Obergefell v. Hodges, stating that the fundamental right to marry is guaranteed to same sex couples by both the due process clause and the Equal Protection Clause of the 14th Amendment. We know that gay married Nebraskans are valued members of our community. With the passage of the bipartisan Respect for Marriage Act at the federal level, we saw that our country can support the right of gay people to marry, even if it conflicts with our individual religious beliefs. Representative Don Bacon represented this perfectly, I think. Quote, as a person of faith, I believe that the traditional-- I believe in the traditional definition of marriage. However, I do not believe the government should dictate who can marry each other based on gender, race or ethnicity. Churches, synagogues, mosques and other religious establishments have the right to decide, within their walls and congregations, who they will perform marriages for, but the federal government does not. This has been the law for years and many thousands have married with this law of the land. Americans should have the right to their private lives. Likewise, let's see that here in Nebraska. Nebraska has changed for the better in the last 20 years.

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And for some context, I was four years old when our marriage ban was passed. I didn't get a say in that. More and more Nebraskans now are openly supporting their gay friends, family and neighbors, including my conservative relatives, who formerly supported that marriage ban. They were at my wedding. In Nebraska, we truly believe in kindness, caring for those around us and the freedom to be ourselves. It's time for our Constitution to reflect this. So for these reasons, Out Nebraska supports LR26CA.

WAYNE: Thank you. Seeing none, thank you for being here.

ARYN HUCK: Thank you.

WAYNE: Next proponent. Next proponent.

JACOB CARMICHAEL: Hello again, for my last time today. Four out of five here, so I guess that's a good record. My name is Jacob Carmichael, J-a-c-o-b C-a-r-m-i-c-h-a-e-l. Thank God I got that right this time. I haven't heard the argument that mainly goes through my mind yet, but I mean, the laws around our equal protection clause and everything that's mentioned before with all of that makes sense. But the fact of the matter is the federal government has passed protections in both the Obergefell v. Hodges case from the Supreme Court and the Marriage Act that was passed recently. I'm forgetting the name. I know it was just mentioned. The state can either pass this amendment and-- or this committee can either pass this amendment through and yeah-- push it through, vote, all of the procedure to this and also, pass Senator Fredrickson's previous bill and update it to the current national standards or they can waste the Attorney General's time in a case that'll lose because of the supremacy clause. Two out of three branches of government have laws and cases in place that will overturn this constitution-- this part of the Constitution and measures of our state laws. They won't stand. There's the hundreds of years of precedent that they won't stand. Supremacy Clause is one of the most important parts of the Constitution that's used as the basis of how this country works. It's a waste of time to not pass this amendment as-- yeah. I don't really know how to phrase it, other than it's a waste of time and money to keep the language that we have and put a challenge forward that will go before the Supreme Court. That's just time and money wasted is a realistic argument for this committee, the body at large and the Attorney General's Office to consider. That's it. Thank you.

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WAYNE: Thank you. Any questions? Seeing none, thank you for being here.

JACOB CARMICHAEL: Thank you.

WAYNE: Next proponent. Next proponent. Welcome back.

DAN ESCH: Thank you. Good evening. Dan Esch, Douglas County Clerk, first name D-a-n, last name E-s-c-h. Well, like last time, I guess, I don't have much to add on to what was already stated. But I guess the one thing, if I'm reading the Articles right, I don't believe, in 2000, it was an amendment to anything. I think it was a totally new section that was put in. And if I'm correct on that, then marriages between man and woman were happening before 2000 and they'll-- if this were to go to a vote of the people and pass, they'll continue afterwards. So anyway, that's it and I'll-- any questions, I'm happy to answer them.

WAYNE: Thank you. Any questions from the committee. Seeing none, thank you for being here.

DAN ESCH: All right.

WAYNE: Next proponent. Welcome back.

CINDY MAXWELL-OSTDIEK: Thank you. Hi. I'm Cindy Maxwell-Ostdiek, C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I wanted to say thank you to Chairperson Wayne and the members of the Judiciary Committee. I appreciate you holding this hearing open today for all those who came to testify. Unfortunately, that's not been happening at all the hearings at the session this year. I am a mom and a small business owner, a volunteer and a concerned community member. I'm also co-founder of the Nebraska Legislative Study Group and my professional background is in human Resources as an executive recruiter. As I testified earlier today at a hearing on a similar subject, I previously worked to attract professionals to many of Nebraska's excellent employers. And unfortunately, there were times we failed to bring candidates to our state or to keep them. We lost them to other states because of policies like this. For Nebraska to attract and retain growing companies and talented employees, we must realize we compete with other states that do protect their citizens and their marriages. I'm testifying today in support of LR262A-- excuse me, LR26CA. And the thing I wanted to bring up that's a little bit interesting from my perspective, this last year, was speaking to

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thousands of neighbors in west Omaha's Legislative District 4. I ran for Legislature as an Independent and I talked with voters from all parties and all backgrounds, all religions, all types of experiences. And I carry many of their stories on my heart, including couples who were worried about the security of their marriage, considering the language that had come out last year, regarding Oberge-- and I can't say the word very well, but regarding the Supreme Court decision. There were families that were very concerned about what was happening here in Nebraska. I want to make sure and bring their stories to you. I thank Senator Day for bringing LR26CA. I want to ask you to please vote yes. Please help our state attract employers, employees, take care of their family members and recognize everybody's marriage, no matter who they love.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

CINDY MAXWELL-OSTDIEK: Thank you.

WAYNE: Next proponent, proponent. Don't look so excited. It's only your third time today.

JANE SEU: Happy to be here.

WAYNE: Welcome.

JANE SEU: Thank you. Good evening. My name is Jane Seu, J-a-n-e S-e-u, and I'm testifying on behalf of the ACLU of Nebraska, in support of LR26CA. We thank Senator Day for introducing this legislation. LR26CA is-- it is common sense update, in light of Obergefell v. Hodges, the Supreme Court case of 2015, giving us marriage equality as the law of the land. As a result, our state constitutional provision of Article I, 29 [SIC] is not, is not enforceable, but it is a harsh stain of exclusion for Nebraskans who wish to marry, but they don't meet the narrow definition of one man and one woman. And as you've also heard, it's common sense because Nebraskans do widely support same sex marriage. Since 2015 and even before the Obergefell ruling, married LGBTQ couples have thrived in our state, enriching our communities and raising their families here. LR26CA would, you know, allow those couples to stay here and to continue to build their families and their lives here. And as we've heard, having inclusive legislation and statutes in our state enriches our communities as a whole, improves our job markets and, and our appeal as a state. And also, as you-- as you've also heard, Congress did pass the Respect for Marriage Act in

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2022, repealing DOMA and requiring the federal government states to recognize same sex unions and marriages. Any couple who decides to marry should have equal access to that right, regardless of gender identity or sexual orientation. So we urge the committee's support of LR26CA and I'm happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

JANE SEU: Thank you.

WAYNE: Next proponent, proponent. We will move to opponents, opponents.

MARION MINER: Good evening, Chairman Wayne, members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life through engaging, educating and empowering public officials, Catholic laity and the general public. The Conference opposes LR26CA, which proposes to strike from the state Constitution-- strike language from the state Constitution, regarding marriages between one man and one woman. Article I, Section 29 of our State Constitution, enacted 23 years ago, does not define marriage, but does declare something about what marriage is not, namely, a relationship of two persons of the same sex. In 2016, Section 29 was rendered unenforceable as a result of the 2015, 2015 U.S. Supreme Court decision, Obergefell v. Hodges, in a 5-4 decision. Justice Anthony Kennedy's majority opinion in that decision and the larger conversation about what our public policy regarding marriage should be, shed light on the fact that our society has at least two conflicting understandings of what the institution of marriage is. One understanding of marriage holds that its primary purpose is the public recognition of a committed relationship between two adults for their fulfillment. Another, more deeply rooted understanding is that marriage is the social institution that unites a man and a woman with each other and with any children born from their union. This second definition is the one that has endured and been recognized, promoted, incentivized and protected as an irreplaceable foundational support for any healthy society by states, cultures and religions, each according to their own competencies, for millennia. Excuse me. Marriage's essential public purpose is to attach mothers and fathers to their children and to one another. If there were no need for these attachments and our common experience illustrates that there most assuredly is, then neither would be there-- then neither

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would there be any need for an institution that encourages and protects them. This is what marriage is and does. It is the only civil institution we have that serves that essential purpose. Every child has a mother and a father. That fact has a significance that goes beyond biology. Marriage is the institution ordered toward protecting the right of children to know their parents and to be raised by them, those persons from whom they derive an irreplaceable part of their identity, except when an unavoidable tragedy prevents it. There are other benefits of marriage and individual persons have unique private motivations for getting married, but marriage's essential public purpose remains the same. It exists to protect the legitimate rights of children which they cannot assert for themselves. Section 29 may be unenforceable as a practical matter so long as Obergefell remains authoritative, but its repeal would signal that the state of Nebraska is demanding the understanding of marriage as this institution. I'll wrap up there.

WAYNE: Any questions from the committee? So do you-- your position-- so we think-- the position is you should keep un-- unconstitutional things in the Constitution?

MARION MINER: Our position is that our Constitution should remain true to what the nature of marriage is, due to the fact that the law teaches even, even-- and, and repealing even unenforceable provisions in our state constitution teaches a lesson to society. And it's important, we think, that the state of the law, even if it's unenforceable, remains true to what the institution of marriage is.

WAYNE: I'm, I'm really not understanding the position here. So are you saying prior to this amendment being passed that our Constitution in Nebraska didn't have a value on marriage?

MARION MINER: No, that's not what I'm saying.

WAYNE: So if this was gone, it would still-- with-- the court-- Nebraska would still have a value, some type of value, on marriage.

MARION MINER: Sure. But I mean, the choices that we decide to make, obviously, can have an impact on, on other people, one of which is and this is one of the, this is one of the chief merits of the law and of public policy, not only, not only because it can be coercive, but also, because it teaches. The law teaches.

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WAYNE: So we shouldn't try to remove the, the part of our Constitution that says Native Americans can't-- well, it says Indians can't be counted as people-- to teach, for the future?

MARION MINER: No, that's not what I'm saying. What I'm saying is what, what the law teaches, what our Constitution teaches regarding marriage, right now, is true.

WAYNE: It's true for?

MARION MINER: It's true.

WAYNE: It's true. OK. If you want to say that's true, but why does it have to be in the Constitution?

MARION MINER: My-- the, the-- it doesn't necessarily have to be in the Constitution, right, in order-- but the reason it was passed in the first place is because there was this idea that marriage was under threat across the country. That, obviously, came to fruition eventually, in Obergefell. So this was passed in anticipation of that. Now, removing that provision from the state constitution obviously doesn't make marriage go away or cease to work with it. It doesn't make the truth of marriage is go away, but it does send a message and it does teach a lesson, as the law does. That's the point I'm making.

WAYNE: So the point is we should keep unconstitutional things and to teach a lesson?

MARION MINER: Sometimes. Sometimes you-- and this, this is true, too, of-- here's the other thing I'll say: is that if and when Obergefell is ever overturned and I don't think that that's going to happen, if it ever does, for a very long time, this would no longer be considered unconstitutional and it would then, become the law of the state of Nebraska again. That's another thing to consider. But sometimes-- and, and this was true of abortion--

WAYNE: And so could Dred Scott, so could a lot of, a lot of things.

MARION MINER: But the, but the difference is one-- some things are right and some things are wrong. And we're-- you can disagree with me about that and that's fine. But my-- our position is that what the Constitution of Nebraska says currently, now, about marriage is true and that removing that from the state constitution sends a message that, in fact, we were mistaken. And it sends a message to the people of Nebraska that what you ought to believe about marriage is different

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than what is-- than what has been proclaimed by our state Constitution.

WAYNE: Or the-- or, or removing it could teach that you shouldn't have unconstitutional things in the Constitution.

MARION MINER: So the other point I was going to make is that, with regard to-- so Roe v. Wade happened in 1973. There were multiple states that declined to remove, from their state statutes, laws that forbade abortion. There were a couple of reasons for that. One was in case Roe v. Wade were ever overturned, which a lot of people thought was not possible and would never happen and second, was the fact that they wanted to-- despite the fact that these statutes would now be unenforceable, it sent a public message which would have been negative and would have been conceding to a falsity about something that's very important, which is the protection of human life. Marriage is also very important. That's why we're in the position we are.

WAYNE: Did the Catholic Conference take a position on removing slavery?

MARION MINER: I don't know.

WAYNE: I believe they took a position and they were supportive. So how do you put those two together?

MARION MINER: Because, because, because slavery is wrong.

WAYNE: Well, it's only slavery if you are convicted of a crime, which is not the same as regular slavery, slavery, right? So was that wrong, too, according to the Catholic Church?

MARION MINER: I don't know. But, but my understanding was-- and, and I wasn't the person who prepared and gave that testimony, so I'm not really the person to ask. If you do want to-- if you want me to relay that message, that question, I'm happy to do that.

WAYNE: I-- I'm just trying to figure out-- all right. You said it. It just--

MARION MINER: I understand. I mean, I understand. There's, there's certain-- the point of view that and I think that as a general rule, this is a good rule. Right. When you have stuff in statute or you have stuff in your state constitutions that's essentially dead letter, at least for now, what makes sense is to cut it out. I'm saying there are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee March 1, 2023
Rough Draft

important exceptions to that rule. And when it comes to marriage and because of how important marriage is, this is an exception to that rule.

WAYNE: --OK. Any other questions from the committee? Seeing none, thank you for being here.

MARION MINER: Thank you.

WAYNE: Next-- opponents. Any other opponent? Anybody testifying in the neutral capacity, neutral capacity? As Senator Day comes up to close, we had 384 letters, 56 in support and 328 in opposition. Welcome back, Senator Day.

DAY: Thank you. I won't keep you much longer. I think there's a little bit of a misunderstanding about what this is. I think some people think that we're removing marriage entirely from the state Constitution, which we know it's not. This is a proposed amendment to allow voters to vote on changing the language surrounding marriage for the state of Nebraska. I know that you guys have been through several hearings related to these issues today. I will just say, from my perspective, again, I believe very strongly in a marriage equality. I have been married to my husband for 12 years. He is the center of my universe and he is the foundation upon which I have built my family and my life. And I cannot imagine someone telling me that I was not allowed to show my commitment and my devotion to him, simply because I was born of a particular sexual orientation. And it frustrates me, when we have people who have been provided the privilege of marrying someone that they are deeply committed to and deeply love, coming up and telling us that other people aren't allowed to have those same privileges. So again, that's my speech on marriage equality. I hope that we can move this potential amendment out so we can move it on to the voters and let them decide what they think. Thank you.

WAYNE: Thank you. And that will close the hearing on LR-- oh, you got any questions? I'm sorry. That was rude of me. That'll close the hearing on LR26CA and that'll close today's hearings.